

# NMB2011





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## Chairman's Letter

**November 14, 2011**

The National Mediation Board (NMB) is an independent, federal agency that addresses collective-bargaining, representation and grievance disputes in two of the nation's key transportation sectors: the railroads and airlines. The agency is headed by a three-member board, appointed by the President and confirmed by the Senate.

Already quite successful in achieving its mission, the NMB continued during FY 2011 to seek out and implement improvements in agency operations. In the spirit of the President's Open Government initiative, the NMB acted upon several recommendations of an external review committee comprised of carrier and union experts. For example, the NMB collaborated with the parties subject to the Railway Labor Act and instituted an "expedited mediation" program to shorten the length of collective bargaining negotiations. For specifics on other actions rendered, see the Chief of Staff letter in the Management Discussion and Analysis section of this Annual Report.

The Board also created an Arbitrator Forum, a working group consisting of rail carrier and labor representatives, to guide improvements and developments in railroad arbitration. The NMB continued its assault on unresolved railroad arbitration grievances: 4,294 cases were closed in FY 2011, setting a new record for the lowest number of cases pending at 2,384.

As one of President Obama's hiring-reform initiatives, the National Mediation Board transitioned to the USA Staffing system last year. This year, the NMB further streamlined its hiring process by initiating background investigations prior to new-hires reporting for duty. This has reduced the hiring process by ten days.

In order to streamline the agency's mandatory and voluntary collective-bargaining and grievance dispute-resolution processes during FY 2011, the NMB Office of Alternative Dispute Resolution Services (ADRS) was merged into the Office of Mediation Services and renamed to Office of Mediation and ADR Services

(OMAS). This improved the coordination and utilization of scarce agency personnel and resources. The highest number of NMB mediation cases since FY 2007 and the highest number of ADR cases since FY 2008 were acted on and closed in FY 2011.

Agency resources for representation and legal affairs were stretched to the limit in FY 2011. The largest number of representation cases since FY 2004 was closed out. The agency made several single-carrier determinations in airline merger situations, conducted a number of very large nationwide representation elections, and is still investigating several allegations of election interference.

Lastly, I wish to note that the agency's paperless Records Management System earned an award for "Outstanding Achievement in Records Management" from the National Archives and Records Administration. This was the second award the NMB has received in Records Management.

This Performance and Accountability Report includes a comprehensive set of performance Goals and Results pursuant to the Government Performance and Results Act. Also incorporated, as required, are the NMB Financial and Management Assurances reports. Because the NMB is not subject to the CFO Act, this Annual Report may not contain some of the information required of CFO Act agencies.



**Linda A. Puchala**  
Chairman

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## Table of Contents

### **3 About the NMB**

- 4 Mission Statement
- 5 NMB Structure
- 6 Board Members and Directors
- 11 Registry of Board Members

### **12 Management Discussion and Analysis**

- 13 Chief of Staff Letter
- 15 Mediation and ADR
- 21 Arbitration
- 25 Administration
- 27 Representation and PEBs
- 37 Performance Plan and Results

### **41 Financial Reports**

- 42 CFO Letter
- 43 Audit Reports
- 48 Financial Statements
- 59 Management Assurances

### **64 Railroad Grievance Arbitration**

- 65 NRAB
- 66 Section 3
- 68 Online Arbitration Reports

### **69 Supporting Reports & Tables**

- 70 Case Tables
- 77 Case Record
- 87 Glossary
- 91 Acronyms



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## About the NMB

---

- 
- 4 MISSION STATEMENT
  - 5 NMB STRUCTURE
  - 6 BOARD MEMBERS  
AND DIRECTORS
  - 11 REGISTRY OF BOARD  
MEMBERS





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## ABOUT THE NMB

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## MISSION STATEMENT

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4

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## Mission Statement

The National Mediation Board (NMB) was established by the 1934 amendments to the Railway Labor Act (RLA) of 1926. It is an independent, federal agency performing a central role in facilitating harmonious labor-management relations within two of the nation's key transportation sectors: the railroads and airlines.

The NMB is headed by a three-member board appointed by the President and confirmed by the Senate. The members self-designate a Chairman typically on a yearly basis.

Pursuant to the Railway Labor Act\*, the Agency's integrated dispute-resolution processes are designed to promote the following three statutory goals, enabling the National Mediation Board to effect its mandate to minimize work stoppages in the railroad and airline industries:

1. The resolution of disputes arising out of the negotiation of new or revised collective bargaining agreements;
2. The effectuation of employee rights of self-organization where a representation dispute exists; and
3. The resolution of disputes over the interpretation or application of existing collective bargaining agreements.

In order to realize these goals, the NMB Chief of Staff oversees an Office of Administration and two offices that house program areas: (1) Office of Mediation and ADR Services, and (2) Office of Arbitration Services. The Office of Legal Affairs constitutes the third program area. For further information, see the Management Discussion and Analysis section of this Annual Report.

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\* The Railway Labor Act (RLA) provides a comprehensive statutory framework for the resolution of labor-management disputes in the airline and railroad industries. Enacted in 1926 as a collaborative effort of labor and management, the RLA succeeded several previous federal statutes dating back to 1888. The 1926 Act provided for mandatory Mediation and voluntary Arbitration of railroad disputes in contract negotiations, as well as for Presidential Emergency Boards to enhance dispute resolution. Key amendments to the Act in 1934 established a three-member National Mediation Board (NMB) and authorized the resolution of employee Representation disputes by the NMB. In 1936, the jurisdiction of the RLA was expanded to include the airline industry. The 1981 amendment to the Act permitted the creation of specialized Presidential Emergency Boards for collective bargaining disputes at certain commuter railroads.



## ABOUT THE NMB

## NMB STRUCTURE

5

## NMB Structure

### CHAIRMAN AND MEMBERS OF THE BOARD

**Linda Puchala<sup>i</sup>**  
Chairman

**Elizabeth Dougherty**  
Member

**Harry Hoglander<sup>ii</sup>**  
Member

• **Libby Angelopoulos**  
CA to Chairman Puchala

• **Layton Griffin<sup>iii</sup>**  
CA to Member Dougherty

• **Robin Stein**  
CA to Member Hoglander

### CHIEF OF STAFF

**Daniel Rainey**, Chief of Staff

- **Samantha Williams**  
Special Assistant to COS
- **Donald West**  
Public Information Officer
- **Charles Montague**  
Supervisory Program Analyst
- **April Dawson**, Program Analyst
- **Dean Wagner<sup>iv</sup>**, Program Analyst
- Interns<sup>vii</sup>

### GENERAL COUNSEL

**Mary Johnson**  
General Counsel

### OFFICE OF ARBITRATION SERVICES

**Roland Watkins**, Director

- **Carol Conrad**  
Supervisory Arbitration Specialist
- **Darrell Dancer**, Paralegal Specialist
- **Tia Little**  
Program Management Specialist (ARB)
- **Kimberly McCann**  
Program Management Assistant (ARB)
- **Linda Gathings**  
Program Management Assistant (ARB)

### OFFICE OF MEDIATION AND ADR SERVICES<sup>vi</sup>

**Larry Gibbons**, Director

- **Pat Sims**, Senior Mediator
- **Denise Hedges**  
Senior Mediator (ADR)
- **Terri Brown**, Senior Mediator
- Mediators  
**Jack Kane, John Livingood, Anthony Tosi, Gerry McGuckin, James Mackenzie, Victoria Gray, C.Anthony Iannone, Michael Kelliher, Walter Darr, Andrew Nordgren**
- **LoValerie Mullins**  
Mediator (ADR)
- **Karen Burton**  
Mediation Program Specialist

### OFFICE OF ADMINISTRATION

**June D.W. King**, Director

- **Amandeus Watkins**, Budget Officer
- **Denise Murdock**  
Program & Management Analyst
- **Steven Thomas**  
Support Service Specialist
- **Bruce Conward, Jr.**  
Support Service Specialist
- **Terran Walker**  
Support Service Specialist
- **Florine Kellogg**, Receptionist

### OFFICE OF LEGAL AFFAIRS

- **Kate Dowling**, Associate GC
- **Norman Graber**, Counsel
- **Eileen Hennessey**, Counsel
- **Susanna Parker**, Counsel
- **Cristina Bonaca**, Counsel
- **Angela Heverling**, Counsel
- **Timothy Sweeney**  
Paralegal Specialist
- **Tonya Kirksey**  
Program Support Specialist
- **Elijah Crayton<sup>viii</sup>**  
Program Support Specialist

i Became Chairman on July 1, 2011.

ii Served as Chairman in this fiscal year through June 30, 2011.

iii Replaced Anne Woodson on October 11, 2011.

iv Served as a Paralegal in the Office of Legal Affairs until April 25, 2011.

v Joined the agency on October 11, 2011.

vi The Office of Alternative Dispute Resolution (ADR) merged with Mediation in this fiscal year.

viii Brad Kinkade, Michelle Rossi, and Aaron Seyedian served the NMB during FY 2011 under the agency's Brunkenhoefer-Lee-Moneypenny Internship Program.



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## ABOUT THE NMB

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## BOARD MEMBERS

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6

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## Board Members

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**Linda Puchala**  
Chairman

Ms. Linda A. Puchala assumed Chairmanship of the National Mediation Board (NMB) for a second time effective July 1, 2011 through June 30, 2012.

Nominated by President Barack Obama, she was confirmed as Member of the National Mediation Board by the United States Senate on May 21, 2009. She was sworn in on May 26, 2009, completing the term of her predecessor as Chairman through June 30, 2009. Ms. Puchala's current term as Member runs through June 30, 2012.

Prior to becoming a Member, Ms. Puchala served 10 years at the National Mediation Board as a Mediator, Sr. Mediator-ADR, and Associate Director of Alternative Dispute Resolution Services. Ms. Puchala's prior labor relations experience includes work as International President of the Association of Flight Attendants-CWA, AFL-CIO and Staff Director, Michigan State Employees Association, AFSCME, AFL-CIO.

Ms. Puchala resides in Glen Burnie, Maryland, and holds a Bachelor's degree in Business Administration from Cleary University in Howell, Michigan. She has two daughters, Jennifer Adams of Pasadena, MD and Jessica Puchala of Grand Rapids, MI.



**Elizabeth Dougherty**  
Member

Ms. Elizabeth Dougherty, a Member of the National Mediation Board (NMB) since December 13, 2006, has twice served as Chairman: from July 1, 2009 through June 30, 2010 and also from December 13, 2006 through June 30, 2007. She was nominated by President George W. Bush and subsequently confirmed by the U.S. Senate on December 8, 2006.

Prior to joining the Board, Ms. Dougherty most recently served as Special Assistant to the President for Domestic Policy at the White House, where she covered labor and transportation issues. Prior to that, she served as Chief Counsel for the United States Senate Subcommittee on Employment, Safety and Training. Earlier in her career, she was an Associate at Hogan & Hartson, practicing labor and employment law.

Ms. Dougherty received her bachelor's degree from Duke University and her JD from the University of Virginia. She currently resides in Washington, DC, with her husband, Paul, and their two children.



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## ABOUT THE NMB

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## BOARD MEMBERS (CONT.)

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7

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## Board Members

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**Harry Hoglander**  
Member

Mr. Hoglander was first confirmed as member of the NMB by the United States Senate on August 1, 2002, and reconfirmed for a second term on December 8, 2006, and a third term on July 24, 2009. He has served three times as Chairman of the Board, most recently from July 1, 2010 through June 30, 2011.

Prior to joining the Board, Mr. Hoglander served as a Legislative Specialist in the office of Congressman John Tierney of Massachusetts with responsibilities in Transportation issues including aviation, rail and maritime, Labor, Defense and Veterans Affairs.

Member Hoglander has an extensive background in the aviation industry and labor relations, having flown as a Captain for Trans World Airline (TWA) and being elected Master Chairman of TWA's Master Executive Council. He was also elected Executive Vice-President of the Air Line Pilots Association. After leaving TWA, Mr. Hoglander was named Aviation Labor Representative to the United States Bi-Lateral Negotiating Team by then Secretary of State James Baker.

Mr. Hoglander was also a pilot in the United States Air Force, retiring with the rank of Lt. Colonel. He graduated from Suffolk University Law School and is a member of the Florida Bar.

Member Hoglander and his wife Judith reside in Magnolia, Massachusetts. They have six grown children and twelve grandchildren.

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## ABOUT THE NMB

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## EXECUTIVE DIRECTORS

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8

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## Executive Directors

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**Daniel Rainey**  
Chief of Staff

Daniel Rainey is the Chief of Staff for the National Mediation Board. He joined the NMB from private practice in ADR and conflict management in April, 2001.

As Chief of Staff, he is responsible for managing the agency's internal programs, and he has full responsibility for implementing the Board's policies in all matters coming under its jurisdiction in the administration of the Railway Labor Act, except for those related to the Board's legal representation program and FOIA requests.

Immediately prior to coming to the NMB, Mr. Rainey was the owner/president of a consulting firm specializing in conflict management, conflict intervention, and training. From 1978 through 1990, he was a faculty member and administrative faculty member at George Mason University.

His memberships and associations include: the Association for Conflict Resolution, the American Bar Association Section of Dispute Resolution, the National Center for Technology and Dispute Resolution, and the Conflict Resolution Quarterly Editorial Board.



**Mary Johnson**  
General Counsel

Mary L. Johnson is General Counsel of the National Mediation Board. As General Counsel, she serves as the Chief Legal Officer of the agency and manages the Board's representation program and a legal program which includes litigation. In this role, Ms. Johnson provides legal advice to the Board Members and agency staff. In addition, she ensures compliance with the Freedom of Information Act, Government in the Sunshine Act, and other statutes.

Several months prior to her becoming General Counsel on December 15, 2002, Ms. Johnson was appointed Acting Director of the Board's Office of Legal Affairs. She had served as the Board's Litigation Counsel since March, 2000. She has also been the agency's Designated Ethics Official since November 2002, and prior to that, Alternate Designated Ethics Official from 1996. Ms. Johnson joined the National Mediation Board as a Hearing Officer in December 1980, and became a Senior Hearing Officer in 1989.

Ms. Johnson received her Juris Doctor from the University of Connecticut School of Law and her A.B. from Barnard College. She is a member of the Connecticut Bar and public Co-chair of the Railroad and Airline Labor Committee of the Labor and Employment Law Section of the American Bar Association.



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## ABOUT THE NMB

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## DIRECTORS

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9

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## Directors

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**Larry Gibbons**

Director, Mediation and ADR Services

Larry Gibbons joined the Board in September, 1997 as a Senior Mediator. Currently, Mr. Gibbons is the Director of Mediation and has overall responsibility for the administration and management of mediation cases in the airline and railroad industries as well as the Agency's Alternate Dispute Resolution Program.

Mr. Gibbons brought to the Board 25 years of experience in personnel and labor relations, practicing under both the NLRA and RLA. Immediately prior to joining the NMB, he headed Human Resources and Labor Relations with ABX Air, Inc. (Airborne Express) for 12 years and for two years was an independent labor relations consultant. He is a past President and Member of the AIRCON Executive Board. Mr. Gibbons was also actively involved in community activities including serving on a Board of Directors for the United Way and an Adult Rehabilitation Workshop.

Mr. Gibbons earned a Bachelor of Science degree in Journalism from Ohio University, and he served as an officer in the United States Army.



**Roland Watkins**

Director, Arbitration Services

Roland Watkins joined the National Mediation Board in February, 1980. During his career at the Board, he has been a Senior Hearing Officer and Legal Counsel. He has also served as counsel/special assistant to numerous Presidential Emergency Boards and Congressional Advisory Boards.

Currently, Mr. Watkins serves as the Director of the Arbitration Department, where he is responsible for all aspects of Grievance and Interest Arbitration in the airline and railroad industries. These responsibilities include administering railroad Public Law Boards, Special Boards of Adjustment and Arbitration Boards. He serves as the Administrator for the National Railroad Adjustment Board which is located in Chicago, Illinois.

Mr. Watkins received his B.A. degree in Economics from Lafayette College located in Easton, Pennsylvania, and his Juris Doctor from Cornell Law School in Ithaca, New York. He is a member of the Railroad and Airline Labor Committee and the Dispute Resolution Committee of the Labor and Employment Law Section of the American Bar Association.

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## ABOUT THE NMB

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## DIRECTORS (CONT.)

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10

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## Directors

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### **June D.W. King**

Director, Office of Administration

June D.W. King is currently the Director of Administration (OA) and Chief Information Officer (CIO) for the National Mediation Board. As the OA Director, she is responsible for the Board's administrative management functions, which include strategic planning and budgeting; accounting and finance; human resources management; procurement and contracting; and internal audit and evaluation. As the CIO, she has direct authority for the NMB's policies and practices of the Board's Information Technology Program.

She serves as the NMB's principal management official on all the Small Agency Councils in the areas of administration, human resources and information technology. She is also a member of the Small Agency Council Executive Committee and the Chief Information Officers' Committee.

Mrs. King received her Bachelor's degree in Business Administration with a concentration in Accounting from the University of the District of Columbia.



## ABOUT THE NMB

### REGISTRY OF BOARD MEMBERS

11

## Registry of Board Members

| Name                       | Start Date | Status              | End Date |
|----------------------------|------------|---------------------|----------|
| Linda A. Puchala           | 05-26-09   | Active <sup>1</sup> | --       |
| Elizabeth Dougherty        | 12-13-06   | Active <sup>2</sup> | --       |
| Read Van de Water          | 12-11-03   | Term Expired        | 05-22-09 |
| Harry R. Hoglander         | 08-06-02   | Active <sup>3</sup> | --       |
| Edward J. Fitzmaurice, Jr. | 08-02-02   | Term Expired        | 12-13-06 |
| Francis J. Duggan          | 11-22-99   | Retired             | 11-21-03 |
| Magdalena G. Jacobsen      | 12-01-93   | Retired             | 08-02-02 |
| Ernest W. DuBester         | 11-15-93   | Resigned            | 08-01-01 |
| Kenneth B. Hipp            | 05-19-95   | Resigned            | 12-31-98 |
| Kimberly A. Madigan        | 08-20-90   | Resigned            | 11-30-93 |
| Patrick J. Cleary          | 12-04-89   | Resigned            | 01-31-95 |
| Joshua M. Javits           | 01-19-88   | Resigned            | 11-14-93 |
| Charles L. Woods           | 01-09-86   | Resigned            | 01-15-88 |
| Helen M. Witt              | 11-18-83   | Resigned            | 09-18-88 |
| Walter C. Wallace          | 10-12-82   | Term Expired        | 07-01-90 |
| Robert J. Brown            | 08-20-79   | Resigned            | 06-01-82 |
| Robert O. Harris           | 08-03-77   | Resigned            | 07-31-84 |
| Kay McMurray               | 10-05-72   | Term Expired        | 07-01-77 |
| Peter C. Benedict          | 08-09-71   | Deceased            | 04-12-72 |
| David H. Stowe             | 12-10-70   | Retired             | 07-01-79 |
| George S. Ives             | 09-19-69   | Retired             | 09-01-81 |
| Howard G. Gamser           | 03-11-63   | Resigned            | 05-31-69 |
| Robert O. Boyd             | 12-28-53   | Resigned            | 10-14-62 |
| Leverett Edwards           | 04-21-50   | Resigned            | 07-31-70 |
| John Thad Scott, Jr.       | 03-05-48   | Resigned            | 07-31-53 |
| Francis A. O'Neill, Jr.    | 04-01-47   | Resigned            | 04-30-71 |
| Frank P. Douglass          | 07-03-44   | Resigned            | 03-01-50 |
| William M. Leiserson       | 03-01-43   | Resigned            | 05-31-44 |
| Harry H. Schwartz          | 02-26-43   | Term Expired        | 01-31-47 |
| David J. Lewis             | 06-03-39   | Resigned            | 02-05-43 |
| George A. Cook             | 01-07-38   | Resigned            | 08-01-46 |
| Otto S. Beyer              | 02-11-36   | Resigned            | 02-11-43 |
| John M. Carmody            | 07-21-34   | Resigned            | 09-30-35 |
| James W. Carmalt           | 07-21-34   | Deceased            | 12-02-37 |
| William M. Leiserson       | 07-21-34   | Resigned            | 05-31-39 |

<sup>1</sup> Term expires July 1, 2012.

<sup>2</sup> Term expired July 1, 2010.

<sup>3</sup> Term expired July 1, 2011.



## Management Discussion and Analysis

|    |                                 |
|----|---------------------------------|
| 13 | CHIEF OF STAFF LETTER           |
| 15 | MEDIATION AND ADR               |
| 21 | ARBITRATION                     |
| 25 | ADMINISTRATION                  |
| 27 | REPRESENTATION AND PEBS         |
| 37 | PERFORMANCE PLAN<br>AND RESULTS |





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**MANAGEMENT DISCUSSION  
AND ANALYSIS**

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**CHIEF OF STAFF LETTER**

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13

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## Chief of Staff Letter

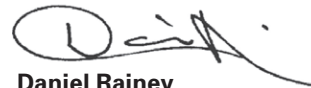
During Fiscal Year 2011, the National Mediation Board entered its 77th year as the agency responsible for promoting harmonious relations among carriers and labor organizations in the airline and railroad industries.

As Chief of Staff, I am responsible for implementing the Board's policies in all matters coming under its jurisdiction in the administration of the Railway Labor Act and managing the agency's internal programs. This includes oversight of the Mediation/ADR, Arbitration and Administrative functions of the NMB. Legal Affairs and Representation matters remain under the supervision of the agency's General Counsel.

The Chief of Staff position was created by the Board in response to a recommendation by the Dunlop Committee Reports Review Committee (Dunlop II), a group of carrier and organization experts called upon by the NMB in 2009 to review the progress the agency had made since the original report of the industry labor-management committee prompted by recommendations in a report by the Dunlop Commission of 1995. The Dunlop II reports and recommendations are available in the NMB Open Government web pages at <http://www.nmb.gov/open/collaboration.html>.

In addition to reconstituting the Office of Chief of Staff, many other recommendations from the Dunlop II Report were acted upon. (See the table on the next page.)

In short, FY 2011 was a critical year for many of the progressive programs the Board has launched. These initiatives demonstrate that the National Mediation Board continues to play an important role in managing conflict in the airline and railroad industries, and continues to lead other agencies in transparency and open government.



**Daniel Rainey**  
Chief of Staff

## MANAGEMENT DISCUSSION AND ANALYSIS

### CHIEF OF STAFF LETTER

14

## Dunlop II Responses

| Recommendation  | Response  |
|---|---|
| Address the length of the process of mediation.                 | The NMB has worked with the parties to encourage better preparation, and better results in direct negotiations. In addition, the Board has instituted an "expedited mediation" program for those parties interested in shortening the length of Section 6 negotiations.   |
| Create an improved case management system.                      | The NMB has improved its case management system and is in the process of rolling out a web-based system for all filings and requests for services.  |
| Improve Mediator reports and case monitoring.                   | The NMB has rewritten and updated the Mediator Handbook, revising the standard mediation reports to include an initial comprehensive case plan and a report on progress after each meeting.   |
| Assess Board Member involvement and coordination.               | The NMB Board Members are now appointed earlier in the process for each case, and the assigned Board Member(s) more closely monitors each case.   |
| Address Mediator staffing and case coverage.                    | For the first time in several years, the NMB is now at full strength in its mediator corps.   |
| Identify and train other staff to assist with mediation duties. | Staff in ADR Services and Arbitration have been trained to engage in training and grievance mediation services, and a new Mediator-ADR is in place and available for training and development.  |
| Revamp recruitment and selection.                               | The NMB has instituted the new USA Staffing system that streamlines and improves the hiring process. Coupled with a more assertive recruitment process, the Board has attracted highly qualified candidates for staff positions, and it has worked with the parties to diversify and improve the roster of arbitrators who routinely hear railroad cases. |
| Improve Mediator training.                                      | A new mediator orientation process is in place. Training for Mediators was conducted in calendar 2010 and will be repeated in calendar 2011. This "recurrent" training is planned as an annual event, above and in addition to the routine training that is part of every Mediator's Individual Development Plan.   |
| Engage in more outreach.  | <p>The NMB has created the Arbitrator Forum, a working group consisting of rail carrier and labor representatives, to guide improvements and developments in the Section 3 area.</p> <p>The NMB has also become more active in addressing industry conferences and conventions regarding its range of mediation and facilitation services.</p>            |



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## MANAGEMENT DISCUSSION AND ANALYSIS

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### MEDIATION AND ADR

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15

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## Mediation and ADR

Larry Gibbons, Director

In the latter part of Fiscal Year 2011, the Office of Alternative Dispute Resolution Services (ADRS) was merged into the Office of Mediation Services and renamed to Office of Mediation and ADR Services (OMAS).

OMAS manages mandatory **Mediation** of collective bargaining disputes pursuant to statutory authority under "Section 6" of the Railway Labor Act (RLA), which is applicable to both the airline and railroad industries. The **ADR** component offers voluntary dispute resolution programs to the parties including facilitation, grievance mediation, training, and other dispute resolution efforts.

For this fiscal year, Mediation and ADRS are discussed separately below. Also, for the purpose of this Annual Report, no effort is made to separate from ADRS other functions that were reorganized during FY 2011.

**Note** A complete list of acronyms is given at the back of this annual report.

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## Mediation Overview

The RLA requires labor and management to exert every reasonable effort to make and maintain collective bargaining agreements. Initially, the parties must give notice to each other of their proposals for new or revised agreements. Direct Negotiation between the parties must commence promptly and continue in an effort to conclude a new collective bargaining agreement or to narrow their differences. Should parties fail to reach agreement during Direct Negotiations, either party or the parties jointly, may apply to the NMB for Mediation. Following receipt of an application, the NMB promptly assigns a mediator to assist the parties in reaching an agreement. [An application for NMB mediation services may be obtained from the Agency's web site at [www.nmb.gov](http://www.nmb.gov).]

The NMB is obligated under the Act to use its "best efforts" to bring about a peaceful resolution of the dispute. If such efforts do not settle the dispute, the NMB advises the parties

and offers Interest Arbitration (proffers arbitration) as an alternative approach to resolving the remaining issues. If either party rejects this offer of binding arbitration, the NMB releases the parties from formal Mediation. This release triggers a thirty-day Cooling Off period, during which the Agency continues to work with the parties to achieve a consensual solution to the dispute. However, if an agreement is not reached by the end of the thirty-day period and the U.S. President does not establish an Emergency Board, the parties are free to exercise lawful self-help, which includes carrier-imposed working conditions or a strike by the union/organization.

For a flow-chart of Mediation procedures, see the Mediation section of the NMB website at [www.nmb.gov](http://www.nmb.gov). For more information on Emergency Boards, see the Representation and PEBs section of this Annual Report.

## MANAGEMENT DISCUSSION AND ANALYSIS

### MEDIATION AND ADR

16

## Mediation Highlights

In Fiscal Year (FY) 2011 mediators faced similarities from the previous year as they continued to work in a very challenging bargaining environment anchored by a fragile economic recovery. Settlements are elusive as legacy air carriers remake themselves after bankruptcies, concessions and mergers. Airline profits have been hard earned and small, but profits of any size raise employee expectations at the bargaining table.

In national handling, where freight railroad profits are at record highs, employees rejected the carriers' proposal to modify healthcare plans even when double-digit wage increases were attached. Carriers and organizations, both air and rail alike, remained engaged in battles over higher wages and better benefits versus the ability to pay. While mediators consistently closed cases this fiscal year, mediation was increasingly important and difficult in assisting the parties to reach Collective Bargaining agreements.

In the face of many challenges, mediator productivity continues to be high in that mediators closed twenty-four percent more cases in FY 2011 than in FY 2010. Overall case intake also increased by more than ten percent over FY 2010.

**Legacy Carriers** The legacy carriers did not fare well this fiscal year in the area of labor relations. AA and UAL have been in mediation with some of their unions for well over 2 years. While USAirways was able to reach agreement with the TWU-represented dispatchers outside of mediation, it remains very much at odds with the flight crew unions: AFA and USAPA. Consequently, 25% of currently open NMB mediation cases involve legacy carriers.

**Cooling-off Periods** Massachusetts Bay Commuter Rail (MBCR) entered into a cooling off period with 12 of its unions in January 2011 which was extended by mutual agreement until March and then again until May. Tentative agreements were reached with all of them. One organization, however, refused to take the

tentative agreement out for a vote, six failed ratification, and five ratified. After a third extension of the status quo, agreements were reached with all the remaining unions.

The five Class I Railroads represented by the National Carrier's Conference Committee and eleven of their Unions were released from mediation in early September. Self-help will be available on October 7, 2011; however, the President has indicated that he would name a Presidential Emergency Board that would forestall any self-help activity.

**Self-help Activity** There was no self-help activity in FY 2011.

**Settlements** Several significant cases were settled this fiscal year with assistance from NMB mediators with Air Tran/ALPA, Air Tran/AFA, UPS/IBT, Pinnacle/ALPA, Continental/IAM, Alaska/IAM, Miami Air International/AFA and Horizon/IBT being among the airlines. Significant rail cases that closed include: MBCR and the TCU, BRS, NCFO, JCC, and IBB; South Central Florida Express/IAM; Montana Rail Link/ATDA; and Indiana South Railroad/IAM.

**Pending Cases** Significant resources will continue to be devoted to open cases at American, United and USAirways, which account for one-quarter of all cases in mediation as concessions, bankruptcies and mergers solidified employee expectations of restoration or partial recovery of wages and benefits.

Other airline cases in mediation include PSA/ALPA & AFA, Piedmont/ALPA & AFA, Spirit/AFA, SWA/TWU and American Eagle/TWU.

Beyond the Commuter Railroad cases, several Regional and Short Line Railroads are in mediation including DQ&E/ATDD, WC/BMWED, ATDD & BRS, PGR/UTU, GWR/BLET and PAR/BLET.

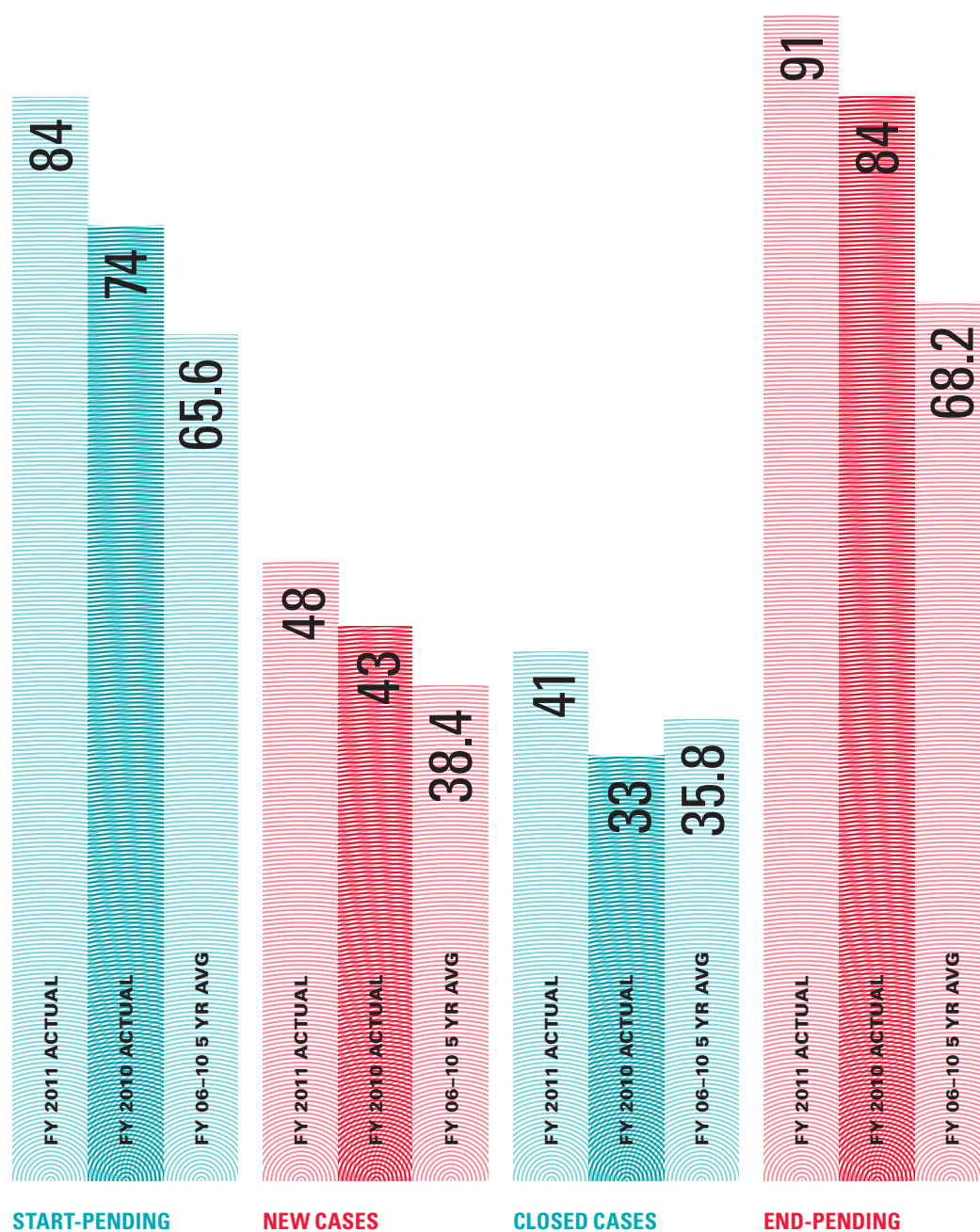
## MANAGEMENT DISCUSSION AND ANALYSIS

### MEDIATION AND ADR

17

## Mediation Cases

The following chart reflects actual case numbers for FY 2011 and FY 2010 and a five-year Average.





## MANAGEMENT DISCUSSION AND ANALYSIS

### MEDIATION AND ADR

18

## ADRS Overview

In addition to statutory mediation and arbitration services under Sections 6 and 3 of the RLA, the NMB provides voluntary Alternative Dispute Resolution (ADR) services. ADR services include facilitation, training, grievance mediation, and an online dispute resolution (ODR) program, applying technology to the dispute resolution process.

The primary goal of the NMB's ADR program is to assist the parties in learning and applying more-effective, less-confrontational methods for resolving disputes. Another goal is to help the parties resolve more of their own disputes without outside intervention, and to use appropriate ODR technology to increase

the efficiency and reduce the cost of dispute resolution efforts for the parties.

The NMB established its ADR Services program with the conviction that use of ADR and ODR methods would result in fewer cases progressing to statutory mediation, reduce and narrow the issues which the parties bring to mediation, and positively affect working relationships among the parties.

A complete description of and an application for ADR services may be found on the Agency's web site at [www.nmb.gov](http://www.nmb.gov).

## ADRS Highlights

In FY 2011 the Office of Alternative Dispute Resolution Services (ADRS), before and after being merged into the Office of Mediation Services, continued to develop and deliver a wide range of ADR services, including training (T cases), facilitation (F cases), grievance mediation (GM) and facilitated problem solving (FPS). ADRS was also actively engaged in projects related to Information Communication and Technology (ICT), Records and Document Management (RDM), and Case Management as well as development and execution of agency-wide Records Management Training. The Records Management efforts resulted in the coveted Archivist Achievement Award for "Outstanding Achievement in Records Management" from NARA (National Archives and Records Administration), the second award the NMB has received in this area in 2 years.

During FY 2011, ADRS continued to offer special training programs and facilitation efforts outside the traditional grievance mediation and facilitation work. The promotion of the use of Online Dispute Resolution (ODR) tools and training has greatly increased demands for ADRS services such as Online Workspaces for the parties, Online Video Conferencing, and pilot programs in conjunction with the Office

of Arbitration including online arbitrations and "submissions only" arbitrations.

ADRS provided grievance mediation training and services that, again in FY 2011, aided a reduction of the number of cases going to arbitration or the bargaining table. In a railroad grievance mediation case recently, for example, ADRS provided grievance mediation and training to the parties. That session began the process of addressing a handful of issues that had triggered over 300 grievances. The parties reached resolution on one of the issues that had triggered a number of grievances. The parties were extremely pleased with the outcome and have planned additional sessions to fully address the other issues.

ADRS continued a series of projects in FY 2011 in cooperation with the Office of Arbitration Services designed to increase financial-management control of arbitration processes and address the backlog of aged cases. First, ADRS led the development of an automated work request and reporting process for the arbitrators, facilitating case tracking and case auditing. Secondly, ADRS partnered with the Office of Arbitration Services (OAS) to offer an expedited Grievance Mediation and Arbitration

## MANAGEMENT DISCUSSION AND ANALYSIS

### MEDIATION AND ADR

19

process designed to increase the use of online technology and to move cases through the system in an expedited manner such as the case referenced in the above paragraph.

Also in FY 2011, ADRS further developed and enhanced NMB's online learning program, the Lyceum, to offer online training to all parties. The NMB Lyceum allows any party, relevant practitioner, and the general public to access the training material at no cost and without having to use passwords or other identifying information. Additionally, the NMB posts items of interest to the parties such as presentations and podcasts of panels and guest speakers at the 2010 Passenger Rail Conference.

**Training** During FY 2011 ADRS continued to refine and update the standard training offered by the NMB, including Grievance Mediation training, Facilitated Problem Solving training and specialized training tailored to the parties' needs, such as team building and System Boards of Adjustment training. In addition, special training in expedited mediation/arbitration processes was requested by the parties and delivered by ADRS and Mediation staffs.

**GM Facilitation and Negotiation** During FY 2011, ADRS and Mediation staff members were engaged in direct delivery of dispute resolution services as facilitators in Grievance Mediation, as facilitators in Interest-based Contract Negotiations, and as trainers in a variety of programs.

A special effort was made to merge grievance mediation with expedited arbitration. Successful GM/expedited projects were completed with New Jersey Transit/BRS and resulted in settlement rather than arbitration. Yet another case, Amtrak/UTU/BLET resulted in a multi-party facilitation/grievance mediation to settle a potential dispute between the carrier and 2 unions before grievances were generated. While work is limited but growing on the railroad side, airlines continue to be out largest user of Grievance Mediation Services.

#### ODR Research and Development

The NMB continued its exploration of online tools to assist mediators, arbitrators and NMB employees in general. Additional research and development in the area of social media and social networking is being analyzed for potential use in ADR development at the NMB.

During FY 2011, online tools were used in training, drafting of agreements, preparation for face-to-face negotiations, agenda setting, and online arbitration for a variety of carriers and organizations. Negotiating parties used comprehensive online workspaces provided by the NMB to manage preparation for negotiations, and to manage information during contract negotiations or grievance mediation. Carriers and organizations actively using NMB online workspaces include: AE/ALPA, CSXT/ATDA, CSXT/UTU, World/IBT, Omni Air/IBT, and Air Wisconsin/IAMAW.

**Online Arbitration** The NMB continued to develop and use during FY 2011 its web-based video and document sharing capabilities. The NMB online arbitration tools have positively impacted the allocation and use of funds in that monies otherwise used for arbitrator travel salaries and expenses were redirected to arbitration hearings and decision writing. Virtually all executive sessions during FY 2011 for the NRAB were held using ODR technology.

**NMB Corporate Memory** In FY 2011, the NMB continued to refine its records and document management program, improving the search engine and further integrating the records database with the agency case management system.

**NMB Knowledge Store** The ADRS staff continued to build and improve the public archive of information available through the NMB Knowledge Store. Currently, the NMB Knowledge Store contains over 100,000 documents in an easily searchable format, including arbitration awards, representation decisions, annual reports, PEB reports, and industry contracts. In FY 2011, the NMB expanded a pilot program to allow carrier and organizations to directly enter final, signed arbitration decisions into the Knowledge Store, ensuring rapid availability of an entire set of decisions for the entire RLA community and the public. During FY 2011, CSXT, AMTRAK, UP, the UTU and the IBEW, were enabled to engage in "direct deposit" of arbitration decisions.

**NMB Case Management Systems** The ADRS Staff continued to refine protocols, standard operating procedures (SOPs), and training for case management systems in Arbitration and Mediation. During FY 2010, Mediation and OLA were moved from an old case management

## MANAGEMENT DISCUSSION AND ANALYSIS

### MEDIATION AND ADR

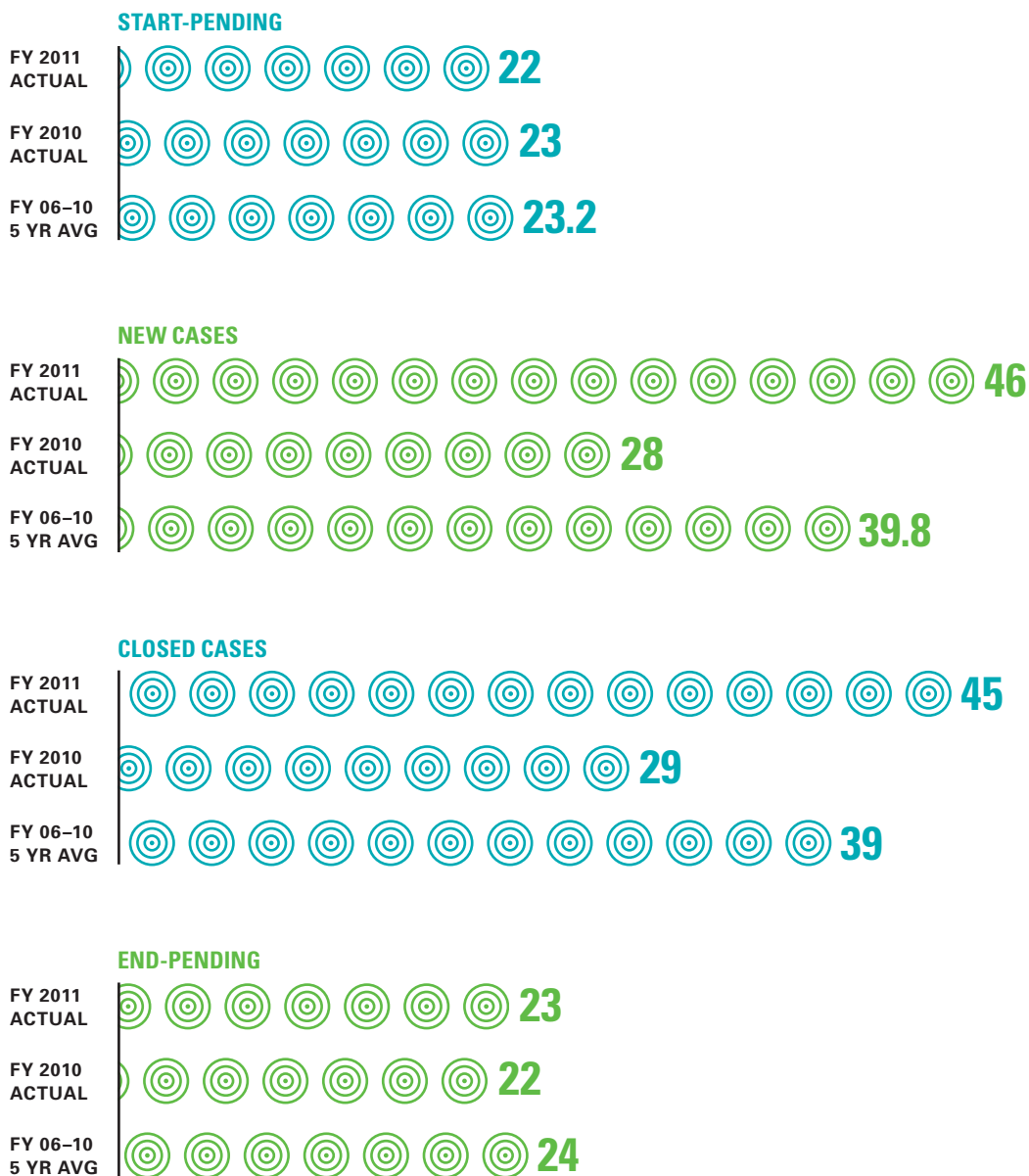
20

data base to a new system integrated with the agency's e-records system. In FY 2011 the system continued to be improved and refined. ADRS continued to assist the departments in

improving their business processes, and in the production of specialized reporting systems and other ad hoc requirements.

## ADR Cases

The following chart reflects the actual case numbers for FY 2011 and FY 2010 and a five-year average.



## Arbitration

Roland Watkins, Director

The Office of Arbitration Services manages the resolution by arbitration of grievance disputes over existing collective bargaining agreements per statutory authority under “Section 3” of the Railway Labor Act (RLA). The RLA provides for both Grievance Arbitration and Interest Arbitration.

## Arbitration Overview

**Grievance Arbitration** Grievance Arbitration is a process for resolving disputes regarding the interpretation or application of an existing collective bargaining agreement. Grievances, known as “minor disputes” under the RLA, must be handled through Grievance Arbitration if not otherwise resolved, and cannot be used by the parties to trigger self-help actions.

The NMB has significant administrative responsibilities for the three types of grievance arbitration in the railroad industry. These types include those of the National Railroad Adjustment Board as well as arbitration panels established directly by the labor-management parties at each railroad: Public Law Boards and Special Boards of Adjustment. Grievance Arbitration in the airline industry is accomplished at the various System Boards of Adjustment created jointly by labor and management at the parties’ expense.

The NMB furnishes panels of prospective arbitrators for the parties’ selection in both the airline and railroad industries. [A request to be placed on the NMB Roster of Arbitrators may be obtained from the Board’s web site at [www.nmb.gov](http://www.nmb.gov). See Forms on the Documents page.] The NMB also has substantial financial responsibilities for railroad arbitration proceedings in

that it pays the salaries and travel expenses of the arbitrators. Grievance Arbitration decisions under the RLA are final and binding with very limited grounds for judicial review.

**Interest Arbitration** Interest Arbitration is a process to establish the terms of a new or modified collective bargaining agreement through arbitration, rather than through negotiations. Although the RLA provides an effective process for Interest Arbitration, its use is not statutorily required.

The NMB offers the parties the opportunity to use binding Interest Arbitration when the Agency has determined that further Mediation efforts will not be successful. In addition, the parties may directly agree to resolve their collective bargaining dispute or portions of their dispute through Interest Arbitration.

The NMB generally provides the parties with panels of potential arbitrators from which they select an individual to resolve their dispute; in some instances however, the parties agree to allow the NMB to directly appoint an arbitrator. Interest Arbitration decisions are final and binding with very narrow grounds for judicial appeal.



## MANAGEMENT DISCUSSION AND ANALYSIS

### ARBITRATION

22

## Arbitration Highlights

The Office of Arbitration Services has directed its attention to promoting a more efficient Section-3 process, thereby fostering faster resolution of minor disputes (grievances). The NMB made a well-received move in this regard during FY 2011 by targeting the backlog of grievance arbitration cases for resolution and increasing the number of arbitrators available to hear and decide cases. Grievance Mediation was also actively promoted as an alternative to arbitration.

The number of cases pending at the end of this fiscal year – 2,384 cases – is the new lowest in NMB history. During FY 2011, the parties brought 3,908 cases to arbitration compared to 4,381 cases in FY 2010. In FY 2011, 4,294 cases were closed compared to 5,648 in FY 2010, leaving only 2,384 cases pending at the end of FY 2011.

The NMB Arbitration program completed its efforts to modernize with the new case management system at the National Railroad Adjustment Board (NRAB). Document and records management was modernized at the NRAB with the conversion of all records to an electronic system. The use of online dispute resolution was also successfully promoted at the NRAB.

On several occasions during the fiscal year, the Agency met with representatives from the labor organizations and carriers to review its caseload. Carriers included Canadian National Railroad, Norfolk Southern Corporation, Union Pacific Railroad and CSX Transportation. The Office of Arbitration Services met with all of the labor organizations representing employees in the railroad industry. NMB efforts have been directed to facilitating a more efficient Section 3 process, thereby reducing the backlog and promoting the RLA objective of prompt resolution of minor disputes.

During FY 2011, the NMB continued its efforts designed to improve the arbitration of grievances under Section 3 of the Railway Labor Act. The Board had five ambitious goals for this transformation: (1) to ensure that the parties receive timely and outstanding arbitration services from the Board's staff and its contract arbitrators; (2) to ensure that the Board uses e-business

capabilities to the maximum extent possible; (3) to ensure that Board procedures are improved through a rulemaking process involving public input; (4) to ensure that arbitrators schedule, hear, and decide cases in a timely manner; and (5) to ensure that NMB resources are used wisely and in accordance with Federal regulations and sound accounting practices.

**Annual Case Audit** In June 2011, the NMB conducted an intensive audit of all cases pending before public law boards and special boards of adjustment. The Agency provided the Class-I freight railroads, commuter railroads, regional railroads and all labor organizations representing railroad employees with a list of cases pending on these boards. The NMB asked the parties to report any discrepancies between their records and the Agency's list. The audit was conducted electronically. The feedback from the audit enhanced the accuracy of the NMB case management system.

**Alternative Dispute Resolution in the Railroad Industry** The NMB actively promoted grievance mediation as an alternative means of dealing with grievances in the railroad industry by reaching out to the largest Class-I freight carriers and the labor organizations. During FY 2011, Arbitration Services made presentations at Canadian National, the United Transportation Union and the IAM&AW promoting grievance mediation as a means of resolving disputes. The NMB anticipates continuing this initiative during FY 2012.

**Increasing Arbitrator Productivity** The NMB continued its efforts to increase arbitrator productivity through rigorous enforcement of the six-month rule. Arbitrators who have not issued a decision within six months of a hearing are contacted monthly and encouraged to issue those decisions. Consequently, approximately 85% of all decisions are rendered within six months of the hearing.

The Agency improved its already successful program of using the NMB website as a source for many of the forms and documents needed by arbitrators and the parties. The NMB used the website to keep the parties and the public informed regarding Section 3 activities. Arbitrators, parties, and the public use its website to

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**MANAGEMENT DISCUSSION  
AND ANALYSIS**

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**ARBITRATION**

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23

obtain information and forms instantaneously. Last year, the agency developed an Arbitrators' Caseload Report and posted a link to the Report on the NMB website. This year the NMB placed an NRAB Open Case Report on the website. This report lists all of the open cases at the NRAB. With this report and the Arbitrators' Caseload Report, the NMB's entire Section 3 caseload is now available on the NMB website.

**Aged Cases** In March 2011 like last year, the Board conducted a review of all open cases on public law boards and special boards of adjustment which are five years and older. The Board worked with the parties to obtain the status of the cases and to encourage the parties to either settle the cases or schedule the cases for hearing. As a result, the Board was able to close the overwhelming majority of the cases and have the remaining few scheduled for hearings. With the exception of the few scheduled for hearings, the Board was able to clear its records of all cases over five years.

The Board contacted the NRAB to obtain the status of their cases over five years. This project is ongoing and will lead to the reduction of the old cases at the NRAB in fiscal year 2012.

**Pay Per-case Project** The NMB expanded a project in which arbitrators were paid on a per-case basis, instead of the normal per-day compensation. The project will be evaluated during the next fiscal year.

**Case Backlog** The National Mediation Board used the increase in Section 3 funding to further reduce the backlog of cases. The backlog of 5,551 cases that existed at the beginning of Fiscal Year 2008, has been reduced to approximately 226 cases.

**Knowledge Store** This year the NMB expanded its use of technology at the NRAB. All NRAB awards are entered into the Knowledge Store at the same time that they are electronically distributed to the parties. Thus awards are received by the parties in some instances, within 24 hours after they have been adopted by the NRAB.

## MANAGEMENT DISCUSSION AND ANALYSIS

### ARBITRATION

24

## Arbitration Cases

The following chart reflects the actual case numbers for FY 2011 and FY 2010 and a five-year average.

### START-PENDING



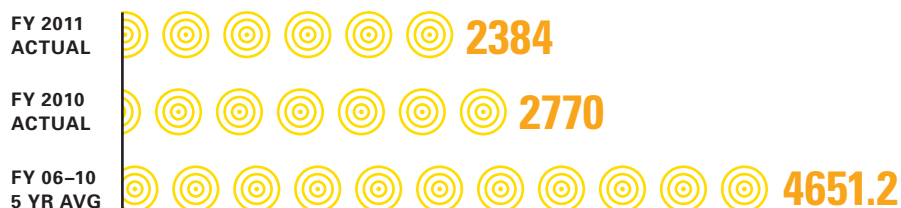
### NEW CASES



### CLOSED CASES



### END-PENDING



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## Administration

June D.W. King, Director

The Director of the Office of Administration (OA), along with six staff members, facilitate NMB achievement of internal strategic goals and government-wide initiatives.

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### Administration Overview

The Office of Administration (OA) provides operational management, leadership and support for the entire agency. These services include: strategic planning and budgeting; accounting and finance; human resources

management; procurement and contracting; information technology management and telecommunications; property and space management; and office support.

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### Administration Highlights

**Human Capital** The NMB's Human Capital Management Report provides a vehicle for ensuring that established objectives are assessed and reported on, accomplished objectives are noted, and that future goals are tracked for continuous improvement. The FY 2010 results were used to make improvements in the human resources arena during FY 2011.

With the implementation of USA Staffing system, the NMB has been able to further streamline the hiring process. We have begun initiating background investigations prior to individuals reporting for duty. In those cases, the timeline has been reduced by 10 days. Instead of 96 days, new employees come on-board within 86 days.

We continue to use the E-verify system to ensure that all new appointees are eligible to work. In addition, we conduct three individual surveys for all new hires to assess their hiring experience. The results received help to improve the training and orientation process for not only the new hires but also as a refresher for our current staff.

**Information Technology** In accordance with the NMB's Capital Planning Plan, the NMB will upgrade its information technology equipment which includes desktop computers and laptops. The NMB is reviewing various aspects of using "cloud" computing to better utilize its resources.

**Continuity of Operations** The NMB participated in the Eagle Horizon 2011 as a table-top exercise. The exercise uncovered some issues in connectivity from our COOP site that are being resolved.

**Financial Performance** The NMB's accounting system, GLOWS, meets all the current financial requirements. This system enables the agency to close its monthly financial records within one business day. The agency's budget is spread out among three program areas which are consistent with the agency's strategic and performance goals. The costs for all the other departments within the agency are accounted for separately in the accounting system to further provide detail accounting of program costs.



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## MANAGEMENT DISCUSSION AND ANALYSIS

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### ADMINISTRATION

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26

The Office of Administration provides budget planning, budget development, and oversight of budget execution. In addition, OA is responsible for the maintenance of the Agency's core accounting system; financial reporting to the Office of Management and Budget (OMB) and Treasury; payments to vendors for goods and services received; issuing bills; and the preparation of the Agency's financial statements which are audited on an annual basis.

The NMB continues to work with an outside firm to audit its financial statements. For the fourteenth consecutive year, Allmond & Company reported that the financial statements were presented fairly, in all material respects, and in conformity with U.S. generally accepted accounting principles (GAAP) for Federal agencies. The FY 2011 audit report is included in this NMB Performance and Accountability Report which is posted on the agency's website at [www.nmb.gov](http://www.nmb.gov). The material weakness identified in last year's report is being addressed by establishing new processes and procedures that will guide the arbitration process.

**Electronic Government** The agency provides electronic access to all its policies. This allows our internal customers to have quick access to all agency policies at their finger tips.

The NMB continues to use its website to provide information to its internal and external customers. The website provides access to our internal customers by allowing them to access the NMB internal forms. Also the website and our online Knowledge Store provide current and historical information to the public and our external customers.

**NMB Knowledge Store** The NMB staff continued to build and improve the public archive of information available through the NMB Knowledge Store. Currently, the NMB Knowledge Store contains over 100,000 documents in an easily searchable format, including arbitration awards, representation decisions, annual reports, PEB reports, and industry contracts. In FY 2011, the NMB expanded a pilot program to allow carrier and organizations to directly enter final, signed arbitration decisions into the Knowledge Store, ensuring rapid availability of an entire set of decisions for the entire RLA community and the public. During FY 2011, CSXT, AMTRAK, UP, the UTU and the IBEW, were enabled to engage in "direct deposit" of arbitration decisions.

**Sustainability** We are committed to reducing green house gases in accordance with Executive Order 13514 (E.O.). During this year, we noted that 63 percent of the NMB employees use public transportation. The Agency provides Alternative Work Schedules (AWS) and Telework programs to its employees. Currently, 37 out of 49 employees participate in the Smart Benefits program. We also purchased new environmentally efficient copiers that generate 90 percent less waste than traditional copiers.

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## Representation and PEBS

Mary Johnson, General Counsel

The Office of Legal Affairs manages representation issues; conducts elections for the purpose of determining collective-bargaining representatives in the airline and railroad industries; and oversees post-mediation activities that lead or may lead to the establishment of Emergency Boards by the President of the United States (PEBs). The General Counsel also serves as legal counsel for the NMB.

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## Representation Overview

Under the Railway Labor Act (RLA), employees in the airline and railroad industries have the right to select a labor organization or individual to represent them for collective bargaining.

Employees may also decline representation. An RLA representational unit is "craft or class," which consists of the overall grouping of employees performing particular types of related duties and functions. The selection of a collective bargaining representative is accomplished on a system-wide basis, which includes all employees in the craft or class anywhere the carrier operates in the United States. [An application for a representation investigation may be obtained from the Agency's web site at [www.nmb.gov](http://www.nmb.gov).]

If a showing-of-interest requirement is met, the NMB continues the investigation, usually with a secret Telephone/Internet election. Only such employees that are found to be eligible to vote by the NMB are permitted to participate in such election. The NMB is responsible for determining RLA jurisdiction, carrier status in mergers, and for ensuring that the requirements for a fair election process have been maintained without "interference, influence or coercion" by the carrier. If the employees vote to be represented,

the NMB issues a certification of that result which commences the carrier's statutory duty to bargain with the certified representative.

The NMB's Office of Legal Affairs (OLA) continues to operate at a high level of quality and efficiency. As a review of customer service and performance standards will attest, the Agency's Representation program consistently achieves its performance goals, delivering outstanding services to the parties and the public.

The OLA staff closed 48 cases and docketed 41 cases during the year. With the Agency resources requested for 2012 and 2013, it is estimated that 52-54 representation cases will be investigated and resolved in each year.

## MANAGEMENT DISCUSSION AND ANALYSIS

### REPRESENTATION AND PEBS

28

## Representation Highlights

Under the RLA, the selection of employee representatives for collective bargaining is accomplished on a system-wide basis. Due to this requirement and the employment patterns in the airline and railroad industries, the Agency's representation cases frequently involve numerous operating stations across the nation. In many instances, labor and management raise substantial issues relating to the composition of the electorate, jurisdictional challenges, allegations of election interference, and other complex matters which require careful investigations and ruling by the NMB.

Representation disputes involving large numbers of employees generally are more publicly visible than cases involving a small number of employees. However, all cases require and receive neutral and professional investigations by the Agency. The NMB ensures that the employees' choices regarding representation are made without interference, influence or coercion. The case summaries that follow are examples of the varied representation matters which were investigated by the NMB during FY 2011.

**United Air Lines and Continental Airlines/ AFA-CWA/IAM** On January 18, 2011, the Association of Flight Attendants-CWA (AFA) filed an application alleging a representation dispute involving the craft or class of Flight Attendants and requested the Board investigate whether United Air Lines (United) and Continental Airlines (Continental) were operating as a single transportation system.

At the time the application was filed, AFA represented the Flight Attendant craft or class at United and the International Association of Machinists (IAM) represented the Flight Attendant craft or class at Continental. AFA asserted that United, Continental, and Continental Micronesia (CMI) constituted a single transportation system.

The Carriers stated that United, Continental and CMI comprised a single transportation system for the craft or class of Flight Attendants.

The IAM asserted that AFA's application was defective because it failed to include CMI as

part of the single transportation system. The IAM also asserted that the AFA application was premature because the integration of flight attendant operations at the Carriers had barely begun. Additionally, the IAM alleged that the AFA application was timed to interfere with a contract ratification vote by pre-merger Continental flight attendants on a tentative agreement to cover the transition period during which flight attendant operations would be combined.

The Board found that the Carriers were wholly-owned subsidiaries of United Continental Holdings, Inc. (UCH) and UCH had a single board of directors and a common senior management group. The Board also found: there was a single group of officers responsible for labor relations at the Carriers; personnel policies and practices were in the process of being integrated; and the Carriers had obtained approval from the FAA for a transition plan moving forward. Additionally, the Board stated that the Carriers: had been aligning schedules in markets where there were overlapping flights; had maintained a code-sharing and alliance agreement for years and had plans for further integration of flight routes and schedules through 2012; had begun the process of merging frequent flyer programs and members of both Carriers' programs were able to receive benefits while flying at either Carrier; had relocated operations to the same terminal in the two largest hubs; had adopted a new logo and the first aircraft with new livery was in operation; and had begun the process of transitioning to common uniforms.

The Board stated that its criteria for substantial integration of operations did not require total integration of operations but that plans were underway for further integration in every area where it had not yet occurred, such as reservations systems and customer service. Additionally, the Board stated that the Carriers had informed their customers of the merger through preflight announcements, both Carriers' websites, magazines, and other media outlets. Based on these steps, the Board found that there was little doubt that integration of operations would continue.



## MANAGEMENT DISCUSSION AND ANALYSIS

### REPRESENTATION AND PEBS

29

In 1993 the Board identified “Air Micronesia” as a subsidiary of Continental in its determination that Continental and Continental Express were a single transportation system. *Continental/Continental Express*, 20 NMB 326 (1993). Air Micronesia was identified as one of the debtor corporations that merged into Continental in the bankruptcy proceedings of Continental Airline Holdings, Inc. Air Micronesia was renamed Continental Micronesia in 1993 after being acquired by Continental. Subsequently, in two cases involving the Flight Attendant craft or class, the Board treated CMI as a separate carrier without specifically analyzing whether CMI was part of a single transportation system with Continental. *Continental Airlines/Continental Micronesia*, 27 NMB 76 (1999); *Continental Micronesia*, 22 NMB 189 (1995). The Board noted that these cases pre-dated the recent combination of the CMI and Continental operating certificates.

The Board found that CMI: was managed entirely by Continental; its aircraft bore the Continental livery; its ground operations used only the Continental name and logo; and its flights were marketed through the Continental reservations office and website. As a result of the merger between United and Continental, Continental decided to seek to combine the CMI and Continental operating certificates. On December 22, 2010, the FAA granted Continental’s request and issued a new operating certificate covering both Continental and CMI. Based on these factors, the Board found that CMI was part of this single transportation finding.

Once the Board determined that a single transportation system existed, it examined the potential representation issues. The Board’s investigation established that there were approximately 15,147 Flight Attendants on the pre-merger United part of the system and approximately 9,458 on the pre-merger Continental and CMI part of the system. Since these numbers were comparable, the Board authorized an election among the craft or class of Flight Attendants.

Based on the election results, on June 30, 2011, the Board certified AFA-CWA as the representative of the Flight Attendants of United Air Lines/Continental Airlines.

On July 12, 2011, the IAM filed interference allegations.

**United Air Lines and Continental Airlines/IAM** On January 21, 2011, the IAM filed an application alleging a representation dispute involving the craft or class of Stock Clerks and requested the Board investigate whether United and Continental were operating as a single transportation system.

At the time the application was filed, the IAM represented the Stock Clerks craft or class at United and the CMI employees who perform stock clerks/stores functions were covered by CMI’s Mechanics and Related Employees collective bargaining agreement with the International Brotherhood of Teamsters (IBT).

The IAM asserted that United and Continental merged to become a single transportation system. Although the IAM’s application did not specifically mention CMI, the IAM supported the Carriers’ position that CMI was a subsidiary of Continental and also part of the single transportation system arising from the United/Continental merger.

Using the same rationale addressed in *United Air Lines and Continental Airlines*, 38 NMB 124 (2011), the Board found that United and Continental were operating as a single transportation system for representation purposes. Similarly, the Board found that CMI was part of this single transportation finding.

Once the Board determined that a single transportation system existed, it examined the potential representation issues. The Board’s investigation established that there were 1,035 Stock Clerks at United – 786 at pre-merger United and 249 at pre-merger Continental (including CMI).

On May 3, 2011, the IAM submitted evidence of representation of the combined craft or class and requested that the Board extend its certification in R-4844 to cover all Stock Clerk employees at the combined Carrier, consistent with Board precedent.

The Carrier responded on May 10, 2011, and requested that the Board conduct a representation election due to the unusual circumstances of the case. The IAM responded and argued that the Board should reject the Carrier’s request.

## MANAGEMENT DISCUSSION AND ANALYSIS

### REPRESENTATION AND PEBS

30

On July 1, 2011, the Board extended the IAM's certification in R-4844 to include all Stock Clerks in United's single transportation system. The Board stated that it consistently extends an organization's certification to cover employees in the craft or class on the entire system when the numbers of employees on each part of the system are not comparable. The Board examined the record and found the numbers of IAM represented Stock Clerks on United were not comparable to the unrepresented Stock Clerks on Continental. Additionally the Board stated that United failed to provide any legal basis for ignoring the Board's well established comparability practice.

**United Air Lines and Continental Airlines/ IAM** On January 21, 2011, the IAM filed an application alleging a representation dispute involving the craft or class of Fleet Service Employees and requested the Board investigate whether United, Continental, and CMI were operating as a single transportation system.

At the time the application was filed, the IAM represented the Fleet Service Employees craft or class at United and the Fleet Service Employees at Continental and CMI were represented by the IBT. The IAM asserted that United, Continental, and CMI constituted a single transportation system. The IBT acknowledged that United and Continental would eventually become a single transportation system for labor relations purposes, but provided a list of actions the carriers needed to take before they were completely integrated according to the Board's criteria. The IBT asked the Board not to declare a single carrier until it found substantial steps towards integrations had taken place. The Carriers stated that United, Continental and CMI comprised a single transportation system for the craft or class of Fleet Service Employees.

The Board noted that it's criteria for substantial integration of operations does not require a total integration of operations. Using the same rationale addressed in *United Air Lines and Continental Airlines*, 38 NMB 124 (2011) and *United Air Lines and Continental Airlines*, 38 NMB 161 (2011), the Board found that United, Continental, and CMI were operating as a single transportation system for representation purposes.

Once the Board determined that a single transportation system existed, it examined the potential representation issues. The Board's investigation established that there were approximately 6862 Fleet Service Employees on the pre-merger United part of the system and approximately 7443 on the pre-merger Continental and CMI part of the system. Since these numbers were comparable, the Board authorized an election among the craft or class of Fleet Service Employees.

Based on the election results, on August 12, 2011, the Board certified the IAM as the representative of the Fleet Service Employees of United Air Lines/Continental Airlines.

**Republic Airlines/ Shuttle America/Chautauqua Airlines/ Frontier Airlines/ Lynx Aviation and the Former Midwest Airlines/ IBT** On October 4, 2010, the IBT filed an application alleging a representation dispute involving the craft or class of Pilots and requested the Board investigate whether Republic Airlines (RA), Shuttle America (Shuttle), Chautauqua Airlines (Chautauqua), Frontier Airlines (Frontier), and Lynx Aviation (Lynx) (collectively the Carriers) were operating as a single transportation system for the craft or class of Pilots. At the time the application was filed, the IBT represented the Pilots at Chautauqua (R-6199). The IBT also represented the Pilots at Republic and Shuttle through a voluntary recognition agreement. The Air Line Pilots Association (ALPA) represented the Pilots at Lynx (R-7212) and the United Transportation Union (UTU) represented the Pilots at Lynx (R-7212). The Frontier Airline Pilots Association (FAPA) represented the Pilots at Frontier (R-6630).

According to the Carriers, Republic Airways Holdings (RAH) was the holding company that owned RA, Chautauqua, Shuttle, Frontier, Lynx, and the former Midwest and operated both "fixed fee" and "branded" operations. The Carriers stated that each subsidiary carrier had its own operating certificate; however, RAH was in the process of transferring Lynx's remaining fleet to the RA operating certificate. The Carriers anticipated to be completed by early 2011, at which time RAH would surrender Lynx's operating certificate and shut down Lynx.

The Carriers stated that management was integrated, and all labor relations and personnel

## MANAGEMENT DISCUSSION AND ANALYSIS

### REPRESENTATION AND PEBS

31

functions for the Carriers were administered by RAH. RAH stated that the single carrier comprised of Chautauqua, Shuttle, and RA would continue to exist in its current form and would be held out to the public and marketed under the brand of the applicable flying partners or the Frontier brand. Frontier (and Lynx until its closing) would continue to be held out to the public and marketed under the Frontier brand.

IBT urged the Board to find that the Carriers were operating as a single transportation system. The IBT argued that all subsidiaries were wholly owned by RAH, including Frontier and Lynx whose acquisition was finalized October 1, 2009. According to IBT, the entities were operating as a single transportation system as evidenced by substantial operational integration, common control and ownership, and combined management and labor relations.

IBT contended that Midwest ceased operations and was not a part of the single transportation system. Additionally, IBT stated that pilot recruiting for each of its subsidiaries was handled by RAH and all Pilots had been integrated into a single seniority list according to Arbitrator Dana E. Eischen's final award on February 19, 2011. IBT argued that while each of RAH's subsidiaries was a separate corporate entity with its own FAA operating certificate, their operations were all consolidated and commonly-scheduled under the Frontier brand, and they were held out as a single company of affiliates on RAH's website. Further, IBT noted that the subsidiaries were presented on a consolidated basis for both financial reporting and operating performance.

IBT noted that both ALPA and UTU agreed that Frontier was appropriately included in the single transportation system. IBT rejected FAPA's main contention that the diverse operations of Chautauqua/RA/Shuttle (fixed-fee and Frontier (branded) made a single finding inappropriate. Finally, the IBT contended that there had been significant steps towards integration of Frontier into the single transportation system since the Board's March 2010 decision regarding Flight Attendants. *Chautauqua Airlines*, 37 NMB 148 (2010).

The UTU argued that based on the integration of operations and labor relations since March 2010, the Board should find all carriers were a single carrier.

ALPA contended that all of RAH's subsidiaries were a single transportation system for the craft or class of Pilots, but argued that the Midwest Pilots were also part of the single transportation system. While ALPA acknowledged that RAH recently stopped selling services under the Midwest brand, it contended that RAH would continue to fly aircraft with Midwest livery through early 2011.

ALPA stated that since the Board's findings in *Chautauqua Airlines*, 37 NMB 148 (2010), RAH had begun to integrate Midwest and Frontier brands operationally, and was using both MWA (Republic d/b/a Midwest Airlines) and Frontier mainline planes, equipment only used in branded operations, to provide that integrated service. As Midwest's operations were integrated with and into the Frontier brand, ALPA contended that the Midwest Pilots had an interest that the Board's merger policies protect. ALPA argued that the ongoing integrations of operations had now integrated Frontier/Lynx into the single transportation system, so that the system included the Carriers "plus Midwest." ALPA believed that the intertwined nature of RAH's two types of operations made a finding of a single transportation system the only result consistent with the RLA's representation structure.

FAPA contended that Frontier was not part of the single transportation system and, therefore, the IBT's application should have been dismissed. FAPA argued that Frontier and Lynx were a separate system as they provided service exclusively for the "branded" business, while Chautauqua and RA provide both "branded" and "fixed fee" service, and Shuttle only provided "fixed fee" service.

Additionally, FAPA asserted that Frontier was a single system, and separate from RAH's other subsidiaries as it offered scheduled service only under its own brand, with its distinct livery on aircraft; had its own FAA operating certificate, and its own website, and; maintained separate day-to-day management below senior management at the holding company level. FAPA noted the Board's decision finding that Frontier was not part of the single transportation system for the craft or class of Flight Attendants. *Chautauqua Airlines*, 37 NMB 148 (2010).

## MANAGEMENT DISCUSSION AND ANALYSIS

### REPRESENTATION AND PEBS

32

The Board found that RAH exercised sufficient common control over its subsidiaries, Chautauqua, Shuttle, RA, Frontier, and Lynx to form a single transportation system for representation purposes. The Board stated that following the multi-step transaction that integrated the former Midwest into Frontier and RA, the Carriers operated with individual operating certificates; however the other factors supported a single system finding. The Board noted that upon the effective date under the arbitrator's award, all Pilots would be working under one seniority list. The Board also found: management and Boards of Directors were overlapping; RAH had total operational control over its subsidiaries' operations; Chautauqua, Shuttle, RA, Frontier, and Lynx were held out as single carrier of affiliates on RAH's website and presented on a consolidated basis for both financial reporting and operational performance. Therefore, the Board found that the Carriers were operating as a single transportation system (Republic Airlines et al./Frontier) for the craft or class of Pilots.

On April 11, 2011, FAPA filed a Motion for Reconsideration requesting the Board reconsider its April 7, 2011 decision finding that RA, Shuttle, Chautauqua, Frontier and Lynx were operating as a single transportation system. The UTU and the IBT filed submissions in opposition to the Motion for Reconsideration. RAH did not take a position on whether the Motion should be granted or denied and ALPA did not submit a position statement.

FAPA contended that the Board's conclusion was in error primarily because it failed to address certain arguments advanced by FAPA, namely: 1) other crafts or classes at Frontier, like the Flight Attendants, remained separate, and no rationale was articulated for why the Board found the Frontier Pilots part of the Republic system; 2) RAH took no formal position on the single transportation system issue here in contrast to the Flight Attendant decision, *See, Chautauqua Airlines*, 37 NMB 148 (2010), where it urged a single transportation system finding; 3) the Board overlooked relevant cases cited by FAPA; 4) the decision failed to indicate that Chautauqua and RA operating on the Frontier brand had markings noting they were operating on a code-share basis; and finally, 5) the Board improperly relied on Arbitrator Eischen's integrated seniority list.

The IBT asserted that FAPA's Motion for Reconsideration merely reasserted arguments previously asserted to the Board and failed to show a material error of law or fact in the Board's conclusion.

The UTU stated that the Board properly relied upon existing precedent in determining that RA, Shuttle, Chautauqua, Frontier and Lynx were operating as a single transportation system for the craft or class of Pilots, and that Midwest Pilots were included in this system. The UTU asserted that FAPA's Motion should be denied.

The Board found that FAPA failed to demonstrate a material error of law or fact or circumstances in which the Board's exercise of discretion to modify the decision was important to the public interest. Furthermore, the Board found that FAPA failed to show that the prior decision was fundamentally inconsistent with the proper execution of the Board's responsibilities under the Railway Labor Act, 45 U.S.C. § 151, *et seq.*

Once the Board determined that a single transportation system existed, it examined the potential representation issues. The Board's investigation established that there were approximately 1986 Pilots on the pre-merger RA, Shuttle, Chautauqua part of the system, and 1139 Pilots on the other parts of the pre-merger system. Since these numbers were comparable, the Board authorized an election among the craft or class of Pilots, employees of Republic Airlines et al./Frontier.

On June 22, 2011, RAH requested the Board postpone the tally scheduled for June 27, 2011, while it considered whether a corporate restructuring and planned divestiture of majority ownership of Frontier affected the Board's determination that Frontier was part of the single transportation system with the RAH operating subsidiaries. According to RAH, it entered into a Letter of Agreement with FAPA, effective date June 17, 2011, and fully ratified by the Frontier Pilots, "detailing the Frontier restructuring effort and reflecting the Company's changed business strategy to have Frontier ultimately operate as a separate corporate entity." In exchange for FAPA's agreement to modify its collective bargaining agreement and agree to significant labor cuts, RAH agreed to: maintain separate Frontier websites for all sales,



## MANAGEMENT DISCUSSION AND ANALYSIS

### REPRESENTATION AND PEBS

33

operational and recruitment purposes; further separate the Frontier management structure to include appointing a separate Frontier Chief Operating Officer and an independent Director of Labor Relations for Frontier; create separate Frontier Human Resources and Payroll functions; maintain a separate and unique Frontier Employee Handbook; and document arms-length agreements with any RAH subsidiary that operates on behalf of Frontier. RAH further agreed to divest itself of its majority equity stake in frontier no later than December 31, 2014, after which a separate Frontier Board of Directors would be established.

The IBT contended that RAH's request should be denied as it was unsupported by any citation to authority, contrary to well-established Board principle that representation elections should be conducted on the present system, not a future system; and, completely without merit. The IBT also stated that it might later pursue allegations of election interference in this matter.

The Board noted that Section 13.302 of the Board's Representation Manual allows participants to request a postponement of the Tally by filing a request supported by substantive evidence. The Board also noted that it only considers granting such requests in extraordinary circumstances. The Board found that postponing the ongoing election would be at odds with its statutory mandate to resolve representation disputes as expeditiously as possible and that RAH failed to cite any Board precedent in support of its request. Therefore, the Board denied RAH's request to postpone the Tally and ordered that the Tally proceed as scheduled.

Based on the election results, on June 28, 2011, the Board certified the IBT as the representative of the Pilots of Republic Airlines et al./Frontier.

**Delta Air Lines, Inc./AFA** On July 1, 2010, the AFA filed an application requesting the Board to investigate whether Delta Air Lines, Inc. (Delta) and Northwest Airlines (Northwest) were operating as a single transportation system for the craft or class of Flight Attendants. The Board found Delta and Northwest were a single transportation system known as Delta for the craft or class of Flight Attendants. *Northwest Airlines, Inc./Delta Air Lines, Inc.*, 37 NMB 323 (2010). On September 1, 2010, the Board authorized an election among the 20,000 Flight Attendants. The Board scheduled the tally for November 3, 2010.

In October, AFA filed allegations of election interference, stating that Delta interfered with employee free choice through the use of "pop-up" messages related to the election on its internal password-protected network, DeltaNet, and the inclusion of a hyperlink to the NMB's website in those pop-up messages.

The Board did not find extraordinary circumstances requiring action during the election period and stated that it would address any allegations regarding conduct during the election period at the end of the voting period.

Based on the results of the election, the Board dismissed AFA's application. *Delta Air Lines, Inc.*, 38 NMB 20 (2010).

On November 23, 2010, AFA filed allegations of election interference. Delta responded. Delta responded on December 21, 2010. AFA filed an additional response on January 14, 2011 and Delta replied on February 10, 2011. In its filings, Delta raised allegations about AFA's conduct during the election.

After reviewing the submissions provided by AFA and Delta, the General Counsel found that in order for the Board to determine whether the laboratory conditions were tainted, further investigation was needed. The Board is currently conducting interviews and an on-site investigation in this matter.

## MANAGEMENT DISCUSSION AND ANALYSIS

### REPRESENTATION AND PEBS

34

**Delta Air Lines, Inc./IAM** In September, the Board found that Delta and Northwest were operating as a single transportation system and ordered an investigation to address the representation consequences for the craft or class of Stock and Stores Employees. *Northwest Airlines, Inc./Delta Air Lines, Inc.*, 37 NMB 397 (2010). On September 27, 2010, the Board authorized an election among the 673 Stock and Stores Employees. The Board scheduled the tally for November 22, 2010.

The November 22, 2010 Report of Election results reflected that a majority of votes cast was for no representation. Therefore, the Board issued a Dismissal. *Delta Air Lines, Inc.*, 38 NMB 33 (2010).

On December 9, 2010, IAM filed allegations of election interference. Delta responded on January 25, 2011. In its response, Delta raised questions about IAM's conduct during the election. IAM filed an additional response on March 8, 2011 and Delta replied on March 21, 2011.

After reviewing the submissions provided by IAM and Delta, the General Counsel found that in order for the Board to determine whether the laboratory conditions were tainted, further investigation was needed. The Board is currently conducting interviews and an on-site investigation in this matter.

**Delta Air Lines, Inc./IAM** In September, the Board found that Delta and Northwest were operating as a single transportation system and ordered an investigation to address the representation consequences for the craft or class of Passenger Service Employees. *Northwest Airlines, Inc./Delta Air Lines, Inc.*, 37 NMB 382 (2010). On October 7, 2010, the Board authorized an election among the 15,436 Passenger Service Employees. The Board scheduled the tally for December 7, 2010.

The December 7, 2010 Report of Election results reflected that a majority of votes cast was for no representation. Therefore, the Board issued a Dismissal. *Delta Air Lines, Inc.*, 38 NMB 35 (2010).

On December 16, 2010, IAM filed allegations of election interference. Delta responded on January 25, 2011. In its response, Delta raised questions about IAM's conduct during the election. IAM filed an additional response on March 15, 2011 and Delta replied on April 15, 2011.

After reviewing the submissions provided by IAM and Delta, the General Counsel found that in order for the Board to determine whether the laboratory conditions were tainted, further investigation was needed. The Board is currently conducting interviews and an on-site investigation in this matter.

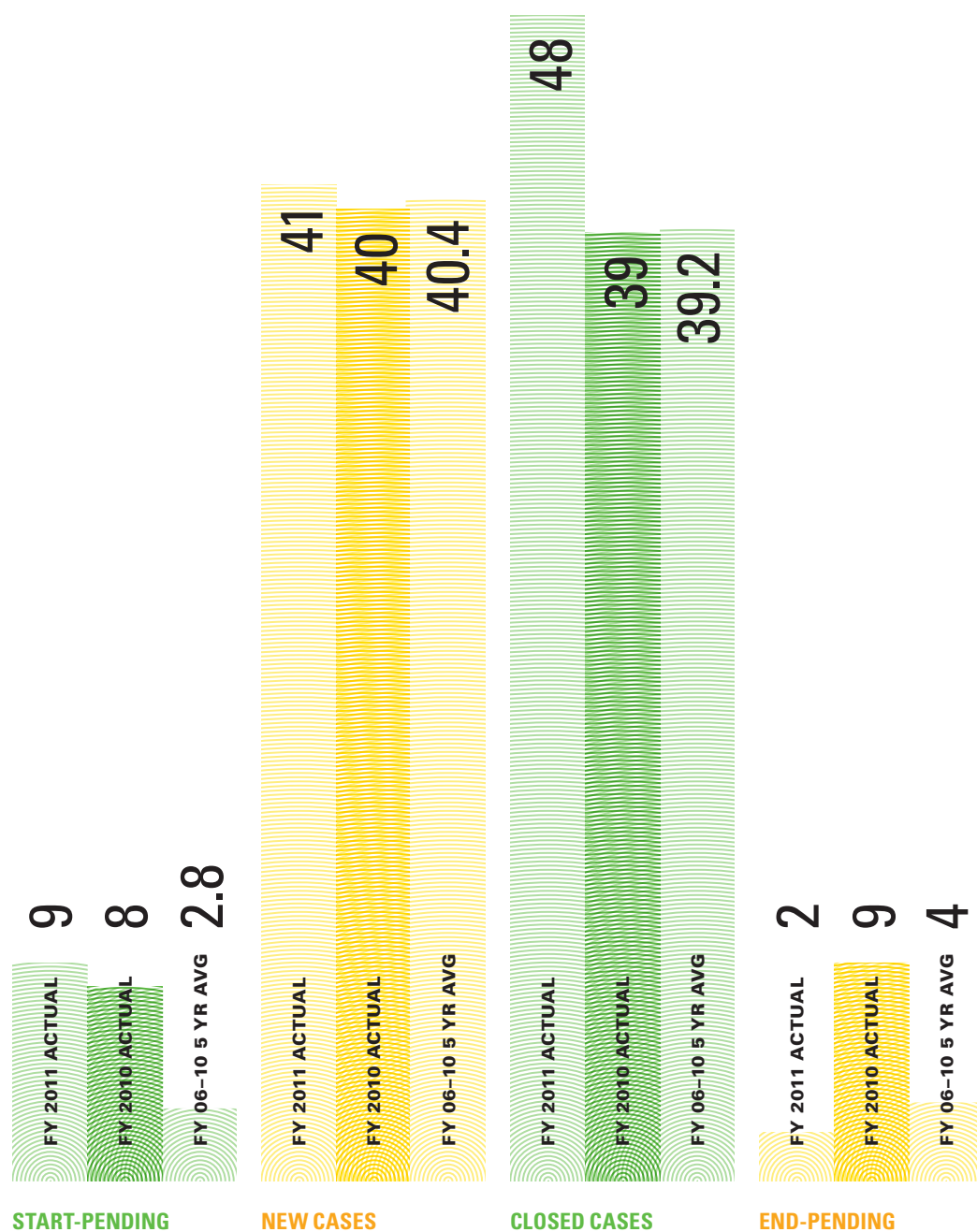
## MANAGEMENT DISCUSSION AND ANALYSIS

### REPRESENTATION AND PEBS

35

## Representation Cases

The following chart reflects the actual case numbers for FY 2011 and FY 2010 and a five-year average.



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## MANAGEMENT DISCUSSION AND ANALYSIS

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### REPRESENTATION AND PEBs

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36

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## Presidential Emergency Boards (PEBs) Overview

Section 159A (Section 9a) of the Railway Labor Act (RLA) provides special, multi-step emergency procedures for unresolved collective-bargaining disputes affecting publicly funded and operated commuter railroads and its employees. Section 160 (Section 10) of the RLA covers all other railroads and airlines.

When the National Mediation Board (NMB) determines that a collective-bargaining dispute cannot be resolved in mediation, the NMB proffers Interest Arbitration to the parties. Either labor or management may refuse the proffer and, after a 30-day cooling-off period, engage in a strike, implement new contract terms, or engage in other types of economic Self Help, unless a Presidential Emergency Board is established.

If the NMB determines, pursuant to Section 160 of the RLA, that a dispute threatens substantially to interrupt interstate commerce to a degree that will deprive any section of the country of essential transportation service, the NMB notifies the President. The President may, at his discretion, establish a PEB to investigate and report respecting such dispute.

Status-quo conditions must be maintained throughout the period that the PEB is impaneled and for 30 days following the PEB report to the President. If no agreement is reached, and there is no intervention by Congress, the parties are free to engage in self-help 30 days after the PEB report to the President.

Apart from the emergency board procedures provided by Section 160 of the RLA, Section 159A (Section 9a) provides special, multi-step emergency procedures for unresolved disputes affecting publicly funded and operated commuter railroads and its employees. If the Mediation procedures are exhausted, the parties to the dispute or the Governor of any state where the railroad operates may request that the President establish a PEB. The President is required to establish such a board if requested. If no settlement is reached within 60 days following the creation of the PEB, the NMB is required to conduct a public hearing on the dispute. If there is no settlement within 120 days after the creation of the PEB, any party or the Governor of any affected state, may request a second, final-offer PEB. No Self-Help is permitted pending the exhaustion of these emergency procedures.

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## PEB Highlights

During fiscal year 2011, there were no Presidential Emergency Boards.



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## MANAGEMENT DISCUSSION AND ANALYSIS

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## PERFORMANCE PLAN AND RESULTS(GPRA)

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37

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## Performance Plan and Results(GPRA)

This report contains FY 2011 Accomplishments of the National Mediation Board relating to goals and objectives for Mediation/ADR, Representation, and Arbitration. These accomplishments enabled the NMB to meet its statutory obligations and provide services to its airline and railroad labor, management and public customers.

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## Strategic Plan General Goal 1

### Mediation and Alternative Dispute Resolution

Mediation and Alternative Dispute Resolution (ADR) will continue to foster the prompt and peaceful resolution of collective bargaining disputes in the airline and railroad industries.

#### Mediation

- I. **Continue to develop standard training for mediators to ensure they are kept abreast of the latest trends in mediation and gain additional industry and technical knowledge in both air and rail.**

FY-2011 Accomplishment: Through the use of Individual Development plans each mediator participated in training and development that met their individual needs. In addition, training covering industry specific topics, as well as guest speakers, was conducted during the bi-monthly mediator meetings.

- II. **Better track the history of cases. Work with Arbitration and Representation to revise and improve the agency case management system.**

FY-2011 Accomplishment: We continued to fine tune the capabilities of and information tracked in the case management system. Specialty reports to help in workload planning and historical research were developed and used.

#### ADR

- I. **Expand current ADR capabilities to address the changing labor environment in the airline and railroad industries and provide more varied assistance in dispute resolution both between and during contract negotiations.**

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## MANAGEMENT DISCUSSION AND ANALYSIS

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## PERFORMANCE PLAN AND RESULTS(GPRA)

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38

- **Use outreach and promotion efforts to raise the visibility of the ADR program.**

FY-2011 Accomplishment: ADR continued to engage in outreach and promotion efforts with parties in the airline and railroad industries. The result of these efforts was a continued case load in special dispute resolution efforts, and ADR/ODR presentations to carriers, organizations, and professional associations. Special concentration was given to local leadership at the railroads and rail organizations with grievance mediation overviews and presentations given to those who handle the lion's share of grievance handling.

- **Review ADR services for potential deletions, additions, or changes.**

FY-2011 Accomplishment: Each year ADRS does reviews of its programs, assessing existing training and service delivery. ADRS created the NMB Lyceum, an online learning resource that helps reduce travel costs for GM training. Working with Arbitration, ADRS increased its promotion of expedited arbitration coupled with grievance mediation as an option for the parties. Also, ADRS continued conversion of the basic arbitration work processes to an automated system developed in conjunction with the Arbitration Services office.

## **II. Implement and develop interagency projects with other labor and transportation agencies with the goal of enhancing labor-management relations in the airline and railroad industries.**

FY-2011 Accomplishment: ADR offered consultation to the Surface Transportation Board, National Archives and Records Administration, and the Congress on the application of ODR technology to open government and e-government initiatives.

## **III. Engage in outreach and education programs to ensure that the NMB is seen as a world leader in airline and railroad labor-management issues and submit proposals for presentations at dispute resolution conferences.**

FY-2011 Accomplishment: ADR staff members were involved in presentations to: the Association for Conflict Resolution, the Dispute Resolution Section of the American Bar Association, the Interagency Dispute Resolution Working Group Steering Committee, American Law Institute and American Bar Association (ALI-ABA) and numerous dispute resolution and legal organizations.

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## Strategic Plan General Goal 2

### **Representation**

The Office of Legal Affairs (OLA) will promptly investigate representation disputes and definitively resolve representation status for collective bargaining purposes, using the most efficient and client-friendly methods available.

### **I. Expand the use of electronic systems to further streamline and reduce cost; continue to integrate Representation data into the agency Corporate Memory; and work with ADR to implement electronic filing system for OLA.**

FY-2011 Accomplishment: OLA primarily accepts electronically submissions in representation cases. The Office of Legal Affairs continued to reduce its use of paper documents by implementing a test program to take electronic witness statements in representation interference investigations.

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## MANAGEMENT DISCUSSION AND ANALYSIS

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## PERFORMANCE PLAN AND RESULTS(GPRA)

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39

### **II. Develop outreach opportunities in the legal, labor relations and alternative dispute resolution communities. Submit proposals for participation in conferences sponsored by the American Bar Association (ABA). Develop appropriate CLE and other training opportunities for RLA practitioners.**

FY-2011 Accomplishment: OLA continued its outreach to the legal, labor relations and alternative dispute resolution communities. OLA attorneys helped plan the agenda for and were panelists at the ABA Railroad and Airline Labor Law Section's Mid-winter meeting as well as the ABA's Labor and Employment Annual CLE Meeting, and a three day Continuing Legal Education seminar on the Railway Labor Act sponsored by ALI-ABA.

### **III. Implement and maintain concise, relevant reference materials, readily available to the public and which reduce the number of man-hours used to research and respond to inquiries; update and improve the material available on the NMB web site; and revise NMB's Representation Manual.**

FY-2011 Accomplishment: OLA Attorneys are working on the 3rd Edition of the authoritative treatise on Railway Labor Act Law published by the Bureau of National Affairs. OLA attorneys assisted in the development of one of the NMB Lyceum's initial on-line course offerings, NMB 101.

### **IV. Maintain continuous industry and agency communication at a level that provides early preparation for Presidential Emergency Board management, and coordinate efforts with the Office of Mediation Services to identify potential disruptions which may lead to a Presidential Emergency Board.**

FY-2011 Accomplishment: The Office of Legal Affairs continually coordinates with the Office of Mediation Services to evaluate potential disruptions in the industry.

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## Strategic Plan General Goal 3

### **Arbitration**

Arbitration will promote the prompt and orderly resolution of grievance disputes in the railroad and airline industries.

#### **I. Modernize and update procedures related to NRAB Section-3 cases and other arbitral forums (public law boards and system boards of adjustment). Conduct a business process review of NRAB case handling.**

FY-2011 Accomplishment: NRAB administrative processes, as well as the procedures governing public law boards and system boards of adjustments, were reviewed with the goal of streamlining procedures.

#### **II. Foster a "best practices" approach to managing the contract-arbitrator roster. Move arbitrator roster information to a new case management system. Improve the guidelines for accepting applicants to the roster.**

FY-2011 Accomplishment: The NMB instituted several projects to help the parties better utilize the NMB Roster of Arbitrators. One project involved CSX Transportation. Another project involved the Canadian National Railroad. An NMB Arbitrators' Caseload Report was updated on the NMB website, along with the official Roster of Arbitrators.

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**MANAGEMENT DISCUSSION  
AND ANALYSIS**

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**PERFORMANCE PLAN  
AND RESULTS(GPRA)**

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40

**III. Foster a “best practices” approach to managing arbitrator billing and payment. Investigate and develop a more equitable and efficient arbitrator billing process.**

FY-2011 Accomplishment: The NMB initiated and implemented several special compensation projects, establishing more boards in which arbitrators were paid on a per-case basis with an increase in compensation for cases heard using the NMB Online Video Conferencing Center (WebEx). These projects will be evaluated in FY 2012.

**IV. Integrate current technology into the arbitration process. Continue to integrate Arbitration business processes into the NMB Corporate Memory program. Cooperate with Mediation, ADR, and Representation to improve the agency case-management system. Continue to encourage the parties to use the agency’s web-based video-conferencing system (WebEx) to reduce costs for arbitration hearings and adoption conferences.**

FY-2011 Accomplishment: The NMB trained several arbitrators, railroad management officials and labor officials in the use of Online Video Conferencing, and several hearings were conducted using OVC during Fiscal Year 2011. OVC was used repeatedly at the National Railroad Adjustment Board.



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## Financial Reports

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- 
- 42 CFO LETTER
  - 43 AUDIT REPORTS
  - 48 FINANCIAL STATEMENTS
  - 59 MANAGEMENT  
ASSURANCES



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## FINANCIAL REPORTS

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### CFO LETTER

---

42

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## CFO Letter

I am pleased to present the National Mediation Board's (NMB) Fiscal Year 2011 financial statements. These statements demonstrate the NMB's commitment to and accountability for the taxpayers' dollars entrusted to us. This report fulfills the requirements of the Reports Consolidation Act of 2000, the Chief Financial Officers Act, the Government Performance and Results Act, the Federal Managers' Financial Integrity Act, and the Government Management Reform Act.

For the fourteenth consecutive year, Allmond & Company reported that the financial statements included in this report were presented fairly, in all material respects, and in conformity with the U.S. generally accepted accounting principles (GAAP) for Federal agencies. In FY 2010, the auditors identified a material weakness regard-

ing the untimely recording of obligations related to arbitration services. The NMB began its review of the auditors' finding during the fourth quarter of FY 2011 and will correct the material weakness in FY 2012.

The NMB continues to strive to maintain an environment in which program and financial managers work to ensure the integrity of financial information and use that information in decision making and performance measurement.



**June D.W. King**  
Director, Office of Administration  
and Chief Financial Officer

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## Audit Reports

**September 30, 2011**

ALLMOND & COMPANY, LLC  
Certified Public Accountants  
8181 Professional Place, Suite 250  
Landover, Maryland 20785  
(301) 918-8200

### Contents

- 43 Independent Auditor's Report
- 44 Independent Auditor's Report on Internal Control
- 47 Independent Auditor's Report on Compliance

### 48 Financial Statements

- 48 Balance Sheet
- 49 Statement of Net Cost
- 49 Statement of Changes in Net Position
- 50 Statement of Budgetary Resources

### 51 Notes to Financial Statements



## FINANCIAL REPORTS

## AUDIT REPORTS

43

## Independent Auditor's Report

### Board Members

National Mediation Board

We audited the accompanying balance sheet of the National Mediation Board (NMB) as of September 30, 2011, and the related statements of net cost, changes in net position, and statement of budgetary resources for the year then ended (the principal financial statements). These financial statements are the responsibility of NMB management and were prepared by NMB in accordance with Office of Management and Budget (OMB) Circular A-136, *Financial Reporting Requirements*, as amended. Our responsibility is to express an opinion on these financial statements based on our audit.

We conducted our audit in accordance with *Government Auditing Standards*, auditing standards generally accepted in the United States, and OMB Bulletin No. 07-04, *Audit Requirements/or Federal Financial Statements*. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audit provides a reasonable basis for our opinion.

In our opinion, the principal financial statements referred to above present fairly, in all material respects, the financial position of NMB as of September 30, 2011, and its net costs, changes in net position, and budgetary resources for the year then ended in conformity with accounting principles generally accepted in the United States.

The information in the *Management and Discussion Analysis* section of this report is not a required part of the principal financial statements, but is supplementary information required by U.S. generally accepted accounting principles. We have applied certain limited procedures, which consisted principally of inquiries of management regarding the methods of measurement and presentation of this information. However we did not audit this information and, accordingly, we express no opinion on it.

We issued a draft of this report to NMB management and requested its comments. Management replied by indicating its general agreement with the audit results. In accordance with *Government Auditing Standards*, we issued separate reports dated October 24, 2011 on NMB's internal control and compliance with laws and regulations. Our reports on internal control and compliance are an integral part of an audit conducted in accordance with *Government Auditing Standards* and, in considering the results of the audit, those reports should be read together with this report.

*Allmond & Company LLC*  
**ALLMOND & COMPANY, LLC**

October 24, 2011  
Landover, Maryland

## FINANCIAL REPORTS

### AUDIT REPORTS

44

## Independent Auditor's Report on Internal Control

### Board Members

National Mediation Board

We audited the accompanying balance sheet of the National Mediation Board (NMB) as of September 30, 2011, and the related statements of net cost, changes in net position, budgetary resources, and financing for the year then ended (the principal financial statements) and issued our report thereon, dated October 24, 2011. We conducted our audit in accordance with *Government Auditing Standards*, auditing standards generally accepted in the United States, and Office of Management and Budget (OMB) Bulletin No. 07-04, *Audit Requirements for Federal Financial Statements*.

In planning and performing our audit, we considered NMB's internal control over financial reporting by obtaining an understanding of NMB's internal control, determining whether internal control had been placed in operation, assessing control risk, and performing tests of control to determine auditing procedures for the purpose of expressing our opinion on the principal financial statements. We limited internal control testing to that necessary to achieve the objectives described in OMB Bulletin No. 07-04. We did not test all internal control relevant to operating objectives as broadly defined by the Federal Managers' Financial Integrity Act of 1982, such as the internal control relevant to ensuring efficient operations. The objective of our audit was not to provide assurance on internal control. Consequently, we do not express an opinion on internal control.

With respect to internal control related to performance measures reported in NMB management's overview, we obtained an understanding of the design of significant internal control relating to the existence and completeness assertions, as required by OMB Bulletin 07-04. We also assessed control risk relevant to NMB intra-agency transactions and balances. Our procedures were not designed to provide assurance on internal control over reported performance measures, and accordingly, we do not express an opinion on such control.

Our consideration of internal control over financial reporting would not necessarily disclose all matters that might be reportable conditions. Under standards issued by the American Institute of Certified Public Accountants, control deficiencies exist when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent or detect misstatements on a timely basis. A significant deficiency is a control deficiency or a combination of control deficiencies, that adversely affects the NMB's ability to initiate, authorize, record, process, or report financial data reliably in accordance with generally accepted accounting principles such that there is more than a remote likelihood that a misstatement of the NMB's financial statements that is more than inconsequential will not be prevented or detected.

A material weakness is a significant deficiency, or combination of significant deficiencies, that results in more than a remote likelihood that a material misstatement of the financial statements will not be prevented or detected. Because of inherent limitations in internal control, misstatements, losses, or noncompliance may nevertheless occur and not be detected.

In our fiscal year 2011 audit, we noted, one matter described in Exhibit I that we considered to be a material weakness. This control weakness was also considered to be a material in the FY 2010 audit.

We issued a draft of this report to NMB management and requested its comments. Management replied by indicating its general agreement with the audit results. This report is intended solely for the information of NMB management, OMB, and Congress. This report is not intended to be and should not be used by anyone other than these specified parties.

*Allmond & Company LLC*

**ALLMOND & COMPANY, LLC**

October 24, 2011

Landover, Maryland



## FINANCIAL REPORTS

## AUDIT REPORTS

45

## Exhibit 1

### Material Weakness

Improvements Were Needed in Recording Obligations Related to Arbitration Services

During FY 2010, NMB appointed an arbitrator to hear a case or a group of related cases by issuing a Certificate of Appointment. The Certificate of Appointment must be signed by both parties (NMB and arbitrator); it commits NMB to pay the arbitrator once an award is made on a case and requires the arbitrator to hear a case or group of related cases. We noted NMB did not record an obligation in the general ledger once the Certificate of Appointment is signed by both parties.

We recommended NMB develop and implement policies and procedures requiring an obligation to be established in the general ledger once a Certificate of Appointment has been signed by NMB and an arbitrator, and the Office of Administration reconcile obligations established in the general ledger to the amount of open cases heard by an arbitrator per the Case Management System.

As part of NMB's FY 2010 corrective action plan, NMB terminated all Certificates of Appointments effective July 1, 2011 and eligible arbitrators were issued letters indicating that they were available to do work as assigned by NMB during the period of July 1, 2011 through September 30, 2011.

During our FY 2011 audit, we noted NMB management still needs to make improvements in recording obligations related to arbitration services. NMB has not fully implemented policies and procedures to record obligations related to arbitration services in the general ledger when they are incurred (once arbitrator is assigned to a case). Specifically, the following weaknesses were identified (1) a document no longer exists that evidences that an arbitrator has been assigned to hear a case; (2) there is no procedure in place that notifies Office of Administration that an arbitrator has been assigned to hear a case (obligation was incurred); and (3) obligations related to arbitration services were established on a month-to-month basis in the general ledger.

Statements of Federal Financial Accounting Concepts (SFFAC) *5 Elements of Accrual Basis Financial Statements and Basic Recognition Criteria* paragraph 42 states, "As the term is used in this Statement, an obligation is a duty or responsibility to act in a certain way. To have a present obligation means that the obligation arose as a result of a past transaction or other event and has not yet been settled. Thus, a present obligation should be distinguished from a mere expression of future intent, such as the government's announcement that it intends to acquire equipment. A present obligation is incurred when the government takes a specific action or an event occurs that commits or binds the government."

At the end of FY 2011, NMB had assigned approximately 2,182 cases to arbitrators to hear. NMB had not established an estimate of the full obligation in the general ledger for all costs associated (travel, hearing the case, and writing a decision) with obtaining an award on the 2,182 cases in which an arbitrator had been assigned to hear at the time the obligation was incurred. NMB established an obligation in the general ledger in September 2011 for (1) arbitrators to write an award on the 661 cases that were heard as of FY 2011; and (2) arbitrators to hear and write an award on 1,521 cases that had not been heard by the end of FY 2011.

Government Accountability Office (GAO) Standards on Internal Control in the Federal Government states, "Transactions should be promptly recorded to maintain their relevance and value to management in controlling operations and making decisions. This applies to the entire process or life cycle of a transaction or event from the initiation and authorization through its final classification in summary records. In addition, control activities help to ensure that all transactions are completely and accurately recorded."

It is NMB practice to establish obligations related to arbitration cases in the general ledger on a month to month basis for expenses that the arbitrator will incur while hearing the case, and once the arbitrator makes an award on a case. Also, at the end of the fiscal year they establish an obligation for cases assigned to an

## FINANCIAL REPORTS

## AUDIT REPORTS

46

arbitrator that have not been heard or an award has not been provided as of September 30.

As a result, obligations recorded in the general ledger during the fiscal year related to arbitration were understated by approximately \$600,000 during FY 2011. Also, not recording obligations in the general ledger when incurred may lead to NMB incurring more obligations than funds made available to them by governing bodies.

Since NMB management still is not recording obligations related to arbitration when incurred, we consider the recommendations made in the FY 2010 audit unresolved and open. To close the recommendations, management needs to do the following:

- 1 Develop and implement policies and procedures requiring the estimation of the full obligation required for an arbitrator to write an award on cases that have been assigned to be recorded in the general ledger at the time it is incurred.
- 2 Develop a document that must be used by the Office of Arbitration to assign an arbitrator to hear a case. This document should be approved by the Director of Arbitration before an obligation is established in the general ledger for all cost associated with the arbitrator rendering an award on the assigned case.
- 3 Office of Administration and Arbitration reconcile the status of obligations established in the general ledger to the amount of cases assigned to an arbitrator per the Case Management System.
- 4 Monitor activities performed monthly by Office of Administration and Office of Arbitration over the funds that remain available for obligation related to arbitration services.
- 5 Develop a mechanism to estimate and update obligations related to arbitration as more information about the status of the case becomes available.

## Management Response

NMB Management concurs with the recommendations identified above and has already put those recommendations in place.

Cancelling the Certificates of Appointment and issuing letters to contractors indicating that they were available to do work, as assigned, for the NMB, the agency is fully compliant with the cited language from the SFFAC: the agency has moved from an obligation to a notice of intent.

Establishment of the Arbitrator Workspace puts in place controls on which cases are assigned to an arbitrator, and allows for tracking of all work associated with a case, from assignment to receipt of the arbitrator's determination. This allows a full accounting of the obligation at the point funds are approved. A "report on demand" feature of the Arbitrator Workspace will allow the Offices of Administration and Arbitration to review, at any time, the status of cases, the status of obligations, and the status of funds for Section 3. Actions taken in the Arbitrator Workspace will be instantly recorded in the Arbitration case management data base, and will be evidence of agency actions sufficient to establish an audit trail for all transactions.

The Arbitrator Workspace is being testing during the first quarter of FY 2012 with approximately 20 percent of the active arbitrators involved as the test group. This test period will confirm the efficacy of the system design and will allow for development of adequate communication between the Offices of Administration and Arbitration. The Arbitrator Workspace and all of its audit functions will be fully operational and mandatory for all arbitrators at the beginning of calendar year 2012.

## FINANCIAL REPORTS

## AUDIT REPORTS

47

## Independent Auditor's Report On Compliance

### Board Members

National Mediation Board

We audited the accompanying balance sheet of the National Mediation Board (NMB) as of September 30, 2011, and the related statements of net cost, changes in net position, budgetary resources, and financing for the year then ended (the principal financial statements) and issued our report thereon, dated October 24, 2011.

We conducted our audit in accordance with *Government Auditing Standards*, auditing standards generally accepted in the United States, and Office of Management and Budget (OMB) Bulletin No. 07-04, *Audit Requirements/or Federal Financial Statements*. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement.

NMB management is responsible for complying with laws and regulations. As part of obtaining reasonable assurance about whether NMB's financial statements are free of material misstatement, we performed tests of its compliance with:

- Certain provisions of laws and regulations, noncompliance with which could have a direct and material effect on the determination of financial statement amounts.
- Certain other laws and regulations specified in OMB Bulletin o. 07-04.

We limited our tests of compliance to these provisions and did not test compliance with all laws and regulations applicable to NMB. Our audit was not designed to provide an opinion on compliance with provisions of laws and regulations. Accordingly, we do not express such an opinion.

Our tests disclosed no instances of material noncompliance required to be reported under *Government Auditing Standards*. Additionally, we did not note any instances of immaterial noncompliance.

We issued a draft of this report to NMB management and requested its comments. Management replied by indicating its general agreement with the audit results. This report is intended solely for the information of NMB management, OMB, and Congress. This report is not intended to be and should not be used by anyone other than these specified parties.

*Allmond & Company LLC*  
**ALLMOND & COMPANY, LLC**  
 October 24, 2011  
 Landover, Maryland

## FINANCIAL REPORTS

## FINANCIAL STATEMENTS

48

## Financial Statements

### National Mediation Board Balance Sheet

As of September 30, 2011 and September 30, 2010

| <b>Assets</b>                                | <b>2011</b>         | <b>2010</b>         |
|--|---------------------|---------------------|
| Entity Assets:                               |                     |                     |
| Intragovernmental                            |                     |                     |
| Fund Balance with Treasury (Note 2)          | \$ 4,695,777        | \$ 4,140,310        |
| Real Estate, Property and Equipment (Note 3) | 174,567             | 208,355             |
| <b>Total Assets</b>                          | <b>\$ 4,870,344</b> | <b>\$ 4,348,665</b> |
| <b>Liabilities and Net Position</b>          |                     |                     |
| <b>Liabilities:</b>                          |                     |                     |
| Intragovernmental Liabilities:               |                     |                     |
| Accounts Payable                             | \$ 240,907          | \$ 85,488           |
| Governmental Liabilities:                    |                     |                     |
| Accounts Payable                             | 487,457             | 361,664             |
| Accrued Payroll and Benefits                 | 130,139             | 331,386             |
| Capital Lease Liability (Note 8)             | 120,481             | 130,892             |
| Contingent Arbitrator Liability (Note 9)     | 542,520             | 486,900             |
| Unfunded Annual Leave                        | 413,336             | 412,471             |
| <b>Total Liabilities</b>                     | <b>1,913,060</b>    | <b>1,808,801</b>    |
| <b>Net Position:</b>                         |                     |                     |
| Unexpended Appropriated Capital              | 3,716,794           | 3,259,683           |
| Cumulative Results of Operations             | (781,290)           | (719,819)           |
| <b>Total Net Position</b>                    | <b>2,935,504</b>    | <b>2,539,864</b>    |
| <b>Total Liabilities and Net Position</b>    | <b>\$ 4,870,344</b> | <b>\$ 4,348,665</b> |

## FINANCIAL REPORTS

## FINANCIAL STATEMENTS

49

## Financial Statements

### National Mediation Board Statement of Net Cost

For the Year Ended September 30, 2011 and September 30, 2010

| <b>Costs</b>  | <b>2011</b>          | <b>2010</b>          |
|---|----------------------|----------------------|
| Mediation/Representation, Arbitration,<br>and Emergency Board |                      |                      |
| Intragovernmental   | \$ 4,001,276         | \$ 3,493,783         |
| With the Public   | 9,187,747            | 8,914,332            |
| <b>Total</b>  | <b>13,189,023</b>    | <b>12,408,115</b>    |
| Less Revenue from Services                                    | 0                    | 0                    |
| <b>Net Program Costs</b>                                      | <b>\$ 13,189,023</b> | <b>\$ 12,408,115</b> |
| <b>Total Assets</b>   | <b>\$ 13,189,023</b> | <b>\$ 12,408,115</b> |

### National Mediation Board Statement of Changes in Net Position

For the Year Ended September 30, 2011 and September 30, 2010

|   | <b>2011</b>         | <b>2010</b>         |
|---|---------------------|---------------------|
| <b>Unexpended Appropriations</b>                |                     |                     |
| Beginning Balance – October 1, 2010             | \$ 3,259,683        | \$ 2,707,490        |
| Prior Period Adjustments                        | (28,803)            | 8,158               |
| Beginning Balance Adjusted                      | \$ 3,230,881        | \$ 2,715,648        |
| Appropriations Received                         | 13,463,000          | 13,463,000          |
| Other Adjustments                               | (358,876)           | (469,620)           |
| Appropriations Used                             | (12,618,211)        | (12,449,345)        |
| <b>Total Unexpended Appropriations</b>          | <b>\$ 3,716,794</b> | <b>\$ 3,259,683</b> |
| <b>Cumulative Results of Operations</b>         |                     |                     |
| Beginning Balance – October 1, 2010             | \$ (719,819)        | \$ (1,239,365)      |
| Prior Period Adjustments – All Other Funds      | 28,803              | (8,158)             |
| Beginning Balance as Adjusted – All Other Funds | \$ (691,016)        | \$ (1,247,523)      |
| Appropriations Used – All Other Funds           | 12,618,211          | 12,449,345          |
| Imputed Financing – All Other Funds (Note 5)    | 480,538             | 486,474             |
| Net Cost of Operations – All Other Funds        | (13,189,023)        | (12,408,115)        |
| <b>Total Cumulative Result of Operations</b>    | <b>\$ (781,290)</b> | <b>\$ (719,819)</b> |
| <b>Net Position</b>                             | <b>\$ 2,935,504</b> | <b>\$ 2,539,864</b> |



## FINANCIAL REPORTS

## FINANCIAL STATEMENTS

50

## Financial Statements

### National Mediation Board

#### Statement of Budgetary Resources

For the Year Ended September 30, 2011 and September 30, 2010

|  | 2011                 | 2010                 |
|--|----------------------|----------------------|
| <b>Budgetary Resources</b>   |                      |                      |
| Budget Authority   | \$ 13,463,000        | \$ 13,463,000        |
| Unobligated Balance – Beginning Period                               | 2,324,226            | 2,153,324            |
| Spending Authority from Offsetting Collections                       | 0                    | 90                   |
| Recoveries of Prior Year Obligations                                 | 0                    | 0                    |
| Adjustments  | (358,876)            | (469,620)            |
| Appropriations Used  | (12,618,211)         | (12,449,345)         |
| <b>Total Budgetary Resources</b>                                     | <b>\$ 15,428,350</b> | <b>\$ 15,146,794</b> |
| <b>Status of Budgetary Resources</b>                                 |                      |                      |
| Obligations Incurred (Note 10)                                       | \$ 12,827,444        | \$ 12,822,568        |
| Unobligated Balance – Available                                      | 467,152              | 466,420              |
| Unobligated Balance – Not Available                                  | 2,133,754            | 1,857,806            |
| <b>Total Status of Budgetary Resources</b>                           | <b>\$ 15,428,350</b> | <b>\$ 15,146,794</b> |
| <b>Outlays</b>   |                      |                      |
| Obligations Incurred   | 12,827,444           | 12,822,568           |
| Less: Spending authority from offsetting collections and adjustments | (0)                  | (90)                 |
| Recoveries of Prior Year Obligations                                 | (0)                  | (0)                  |
| Obligated Balance, Net – Beginning Period                            | 1,816,083            | 1,599,537            |
| Obligated Balance, Transferred, Net                                  | (2,094,871)          | (1,816,083)          |
| Less: Obligated Balance, Net – End of Period                         |                      |                      |
| <b>Net Outlays</b>   | <b>\$ 12,548,656</b> | <b>\$ 12,605,931</b> |

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**FINANCIAL REPORTS**

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**NOTES TO FINANCIAL  
STATEMENTS**

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51

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## Note 1: Summary of Significant Accounting Policies

### Description of Reporting Entity

The National Mediation Board (NMB), established in 1934 under section 4 of the Railway Labor Act (RLA), is an independent U.S. federal government agency that performs a central role in facilitating harmonious labor-management relations within two of the nation's key transportation modes - the railroads and airlines. Recognizing the importance of these transportation industries to the public shippers, and consumers, as well as to the economy and security of the country, the RLA established NMB to promote four key statutory goals:

- The prompt and orderly resolution of disputes arising out of the negotiation of new or revised collective bargaining agreements;
- The avoidance of interruptions to interstate commerce;
- The protection of employee rights to self-organization; and
- The prompt and orderly resolution of disputes over the interpretation or application of existing agreements.

These financial statements include all activity related to NMB's appropriation (No. 95112400), the principal funding for all NMB activities.

NMB prepares its financial statements to be in conformity with generally accepted accounting principles.

NMB does not hold any non-entity assets and has no earmarked funds as described by the Government Accountability Office (GAO).

### Budgets and Budgetary Accounting

Congress annually adopts a budget appropriation that provides NMB with authority to use funds from Treasury to meet operating and program expense requirements. NMB has single year budgetary authority and all unobligated amounts at year-end are expired. At the end of the fifth year all amounts not expended are canceled. All revenue received from other sources must be returned to the U.S. Treasury.

### Basis of Accounting

NMB's financial statements are prepared under the accrual method of accounting. The accrual method of accounting requires recognition of the financial effects of transactions, events, and circumstances in the period(s) when those transactions, events, and circumstances occur, regardless of when cash is received or paid. NMB also uses budgetary accounting to facilitate compliance with legal constraints and to keep track of its budget authority at the various stages of execution, including allotment, obligation, and eventual outlay.

The Balance Sheet, Statement of Net Cost, Statement of Net Position, and Statement of Budgetary Resources have been prepared in accordance with generally accepted accounting principles.

### Revenue and Other Financing Sources

NMB receives funds to support its programs through annual appropriations. These may be used to pay program and administrative expenses (primarily salaries and benefits, occupancy, travel, and contractual services costs).

Appropriations are recognized as financing sources at the time they are used to pay program or administrative expenses. Appropriations used to acquire property and equipment is recognized as financing sources when the assets are purchased.

## FINANCIAL REPORTS

### NOTES TO FINANCIAL STATEMENTS

52

NMB also earns revenue when it bills for copies of subscriptions. These subscriptions are for determinations on the cases NMB handles.

#### Fund Balances with the US Department of the Treasury

NMB does not maintain cash in commercial bank accounts. Cash receipts and disbursements are processed by Treasury. The balance of funds with Treasury represents appropriated fund balances that are available to pay current liabilities and finance authorized purchase obligations relative to goods or services that have not been received.

#### Property and Equipment

Property and equipment is stated at cost less accumulated depreciation. NMB capitalizes property and equipment purchases with a cost greater than \$5,000, and a total useful life exceeding one year. Depreciation is calculated on a straight-line basis based on an estimated useful life of 5 years for all assets. Expenditures for repairs and maintenance are charged to operating expenses as incurred.

When NMB enters into a lease agreement, as lessee, if the title of the asset transfers to NMB at the end of the lease or any of the other three capitalization criteria pursuant to SFFAS No. 6, *Accounting for Property, Plant, and Equipment*, are met, NMB capitalizes the lease at the present value of minimum lease payment and amortizes the cost over the economic useful life of the asset.

#### Liabilities

Liabilities represent the amount of monies or other resources that are likely to be paid by NMB as the result of a transaction or event that has already occurred. However, no liability can be paid by NMB absent an appropriation. Liabilities for which an appropriation has not been enacted are therefore classified as Liabilities Not Covered by Budgetary Resources and there is no certainty that the appropriations will be enacted. Also, liabilities of NMB arising from other than contracts can be abrogated by the government, acting in its sovereign capacity.

Regarding NMB's building lease, the General Services Administration (GSA) entered into a lease agreement for NMB's rental of building space. NMB pays GSA a standard level users charge for the annual rental. The standard level users charge approximates the commercial rental rates for similar properties.

#### Accrued Leave

Accrued payroll and benefits reflect salaries and benefits that have been earned, but not disbursed as of September 30, 2011.

#### Unfunded Annual Leave

Annual leave is accrued as a liability as it is earned. The accrual is reduced as leave is taken. Each year, the balance in the accrued annual leave account is adjusted to reflect current year pay rates. To the extent that the current or prior year appropriations are not available to fund annual leave earned but not taken, funding will be obtained from future appropriations. Sick leave and other types of non-vested leave are charged to expense as the leave is used.

#### Liabilities Not Covered By Budgetary Resources

These liabilities are not funded by direct budgetary authority. Liabilities not covered by budgetary resources result from the receipt of goods or services in the current or prior periods, or the occurrence of eligible events in the current or prior periods for which appropriations, revenues, or other financing sources of funds necessary to pay the liabilities have not been made available through Congressional appropriations or current earnings of the reporting entity. Liabilities not covered by budgetary resources as of September 30, 2011 and September 30, 2010 were:

|                                    | FY 2011    | FY 2010    |
|------------------------------------|------------|------------|
| Unfunded Annual Leave              | \$ 413,336 | \$ 412,471 |
| Contingent Arbitrators Liabilities | \$ 542,520 | \$ 486,900 |

## FINANCIAL REPORTS

## NOTES TO FINANCIAL STATEMENTS

53

### Net Position

Appropriated fund balance consists of the following components:

*Unexpended appropriated capital* - represents amounts of unavailable and available budget authority that are unobligated, or obligated but not expended. The obligated amount represents amounts for goods and/or services outstanding for which funds have been obligated, but the liabilities have not been accrued.

|  | FY 2011             | FY 2010             |
|--|---------------------|---------------------|
| Unobligated, available                 | \$ 0                | \$ 0                |
| Unobligated, unavailable               | 2,600,906           | 2,324,227           |
| Undelivered Orders                     | 1,115,888           | 935,456             |
| <b>Unexpended Appropriated Capital</b> | <b>\$ 3,716,794</b> | <b>\$ 3,259,683</b> |

*Future funding requirements* - represents the liabilities not covered by available budgetary resources.

### Retirement Plan

NMB's employees participate in either the Civil Service Retirement System (CSRS) or the Federal Employees' Retirement System (FERS). Employees participating in CSRS contribute 7 percent of their gross pay to the plan, and NMB contributes 7 percent.

On January 1, 1987, FERS went into effect pursuant to Public Law 99-335. Most employees hired after December 31, 1983, are automatically covered by FERS and are eligible for Social Security benefits. Employees hired prior to January 1, 1984, could elect either to transfer to the FERS plan and become eligible for Social Security benefits or remain in CSRS. A primary feature of FERS is that it offers a savings plan in which NMB automatically contributes 1 percent of employees' pay and matches any employee contribution up to an additional 4 percent of pay.

The actuarial present value of accumulated benefits, assets available for benefits, and unfunded pension liability of CSRS and FERS is not allocated to individual departments and agencies and is therefore not disclosed by NMB. The reporting of these amounts is the responsibility of the Office of Personnel Management.

During fiscal years 2011 and 2010, NMB paid \$70,803 and \$82,795 for CSRS, and \$464,031 and \$406,059 for FERS, respectively for its employees' coverage.

### Tax Status

NMB, as an independent Board of the executive branch, a federal agency, is not subject to federal, state, or local income taxes, and, accordingly, no provision for income tax is recorded.

## Note 2: Fund Balances with Treasury

Fund balances with Treasury were entirely entity assets from appropriations and consisted of the following:

|                                   | FY 2011             | FY 2010             |
|-----------------------------------|---------------------|---------------------|
| Obligated                         | \$ 2,094,871        | \$ 1,816,083        |
| Unobligated Available             | 0                   | 0                   |
| Unobligated Restricted            | 2,600,906           | 2,324,226           |
| <b>Fund Balance with Treasury</b> | <b>\$ 4,695,777</b> | <b>\$ 4,140,309</b> |



## FINANCIAL REPORTS

### NOTES TO FINANCIAL STATEMENTS

54

## Note 3: Property and Equipment, Net

NMB uses straight-line depreciation with a useful life of 5 years and a capitalization threshold of \$5,000. Property and equipment, and related accumulated depreciation, at September 30, 2011 and September 30, 2010 consisted of:

|  | <b>FY 2011</b>    | <b>FY 2010</b>    |
|--|-------------------|-------------------|
| Equipment-Capitalized                    | \$ 93,553         | \$ 187,300        |
| Capital Lease                            | 182,353           | 160,959           |
|  | 275,906           | 348,259           |
| Less: Accumulated Depreciation           | (101,339)         | (139,904)         |
| <b>Total Property and Equipment, net</b> | <b>\$ 174,567</b> | <b>\$ 208,355</b> |

## Note 4: Program/Operating Expenses

Although OMB Circular A-136 only requires that operating expenses be broken out by program and object classification if the principal statements may be misleading for FY 2011, NMB has chosen to display its operating expenses by object classification for FY 2011 and FY 2010 for a more clear presentation.

|                          | <b>FY 2011</b>       | <b>FY 2010</b>       |
|--------------------------|----------------------|----------------------|
| Personnel Compensation   | \$ 7,188,686         | \$ 7,665,815         |
| Personnel Benefits       | 1,496,094            | 1,490,352            |
| Travel of Persons        | 627,539              | 626,323              |
| Transportation of Things | 1,422                | 5,902                |
| Rent/Comm/Utilities      | 1,530,393            | 1,276,370            |
| Printing                 | 4,376                | 41,899               |
| Other Services           | 1,457,584            | 1,007,180            |
| Supplies                 | 161,180              | 129,792              |
| Equipment                | 118,885              | 338,820              |
| <b>Total</b>             | <b>\$ 12,586,159</b> | <b>\$ 12,582,452</b> |

## Note 5: Pensions, Other Retirement Benefits, and Other Post Retirement Benefits

The NMB reports the full cost of employee pensions, other retirement benefits, and other post-employment benefits in accordance with SFFAS No. 5, Accounting for Liabilities of the Federal Government. Although the NMB funds a portion of the benefits under FERS and CSRS relating to its employees and withholds the necessary payroll deductions, a portion of the Normal Pension Cost remains unpaid. SFFAS No. 5 requires the recognition of this remaining cost as imputed financing.

## FINANCIAL REPORTS

### NOTES TO FINANCIAL STATEMENTS

55

Pension and other retirement benefit expenses are calculated using cost factors determined by actuaries at the Office of Personnel Management. These cost factors are calculated based on economic and demographic assumptions. The cost factor is multiplied by the basic pay in order to obtain the "Normal Cost" for the accounting period. This Normal Cost is the present value of the projected benefits of each employee allocated on a level basis over the service of the employee between entry age and assumed exit age.

The imputed financing amount represents the difference between the employer's total pension expense and the employer's contribution. For the period ending September 30, 2011 the Normal Cost, employer's total pension expense, employer's contribution and imputed financing amounts were as follows:

| Employee Type                        | Normal Cost | Employer's Total Pension Expense | Employer's Contribution | Employer's Imputed Financing Expense |
|--------------------------------------|-------------|----------------------------------|-------------------------|--------------------------------------|
| CSRS                                 | \$ 312,344  | \$ 72,638                        | \$ 72,638               | \$ 167,068                           |
| FERS                                 | 597,109     | 34,615                           | 506,245                 | 56,249                               |
| Total                                | \$ 909,453  | \$ 107,253                       | \$ 578,883              | \$ 223,317                           |
| Health Insurance                     |             |                                  |                         | 256,148                              |
| Life Insurance                       |             |                                  |                         | 1,073                                |
| <b>Total</b>                         |             |                                  |                         | <b>257,221</b>                       |
| <b>Grand Total Imputed Financing</b> |             |                                  |                         | <b>\$ 480,538</b>                    |

September 30, 2010

| Employee Type                        | Normal Cost | Employer's Total Pension Expense | Employer's Contribution | Employer's Imputed Financing Expense |
|--------------------------------------|-------------|----------------------------------|-------------------------|--------------------------------------|
| CSRS                                 | \$ 330,909  | \$ 76,956                        | \$ 76,956               | \$ 176,998                           |
| FERS                                 | 531,249     | 30,797                           | 431,159                 | 69,293                               |
| Total                                | \$ 862,159  | \$ 107,753                       | \$ 508,115              | \$ 246,292                           |
| Health Insurance                     |             |                                  |                         | 239,193                              |
| Life Insurance                       |             |                                  |                         | 990                                  |
| <b>Total</b>                         |             |                                  |                         | <b>240,183</b>                       |
| <b>Grand Total Imputed Financing</b> |             |                                  |                         | <b>\$ 486,474</b>                    |

## FINANCIAL REPORTS

### NOTES TO FINANCIAL STATEMENTS

56

## Note 6: Obligated Balances, Net, End of Period as of September 30, 2011

The components of the obligated balance as of September 30, 2011 and September 30, 2010 are:

|  | <b>FY 2011</b>      | <b>FY 2010</b>      |
|--|---------------------|---------------------|
| Equipment-Capitalized                    | \$ 1,115,888        | \$ 935,456          |
| Capital Lease                            | 978,983             | 880,627             |
| <b>Total Property and Equipment, net</b> | <b>\$ 2,094,871</b> | <b>\$ 1,816,083</b> |

## Note 7: Statement of Financing

For the Year Ended September 30, 2011 and September 30, 2010

|  | <b>2011</b>          | <b>2010</b>          |
|--|----------------------|----------------------|
| Resources Used to Finance Activities   |                      |                      |
| Obligations Incurred   | \$ 12,827,444        | \$ 12,822,568        |
| Less: Spending authority for offsetting collections and Recoveries of Prior Year Obligations | (0)                  | (90)                 |
| Imputed Financing (Note 5)   | 480,538              | 486,474              |
| <b>Total Budgetary Resources to Finance Activities</b>                                       | <b>\$ 13,307,982</b> | <b>\$ 13,308,952</b> |
| Less: Resources Not Used to Finance  |                      |                      |
| Net Cost of Operations   |                      |                      |
| Change in Amount of Goods, Services and Benefits ordered but not yet Received or Provided    | \$ 180,430           | \$ 373,132           |
| Costs Capitalized on the Balance Sheet   | 72,353               | 211,096              |
| Other  | 6,645                | 0                    |
| <b>Total Resources Not Used to Finance</b>   | <b>\$ 259,428</b>    | <b>\$ 584,229</b>    |
| <b>Net Cost of Operations</b>  |                      |                      |
| <b>Total Resources Used to Finance</b>   | <b>\$ 13,048,554</b> | <b>\$ 12,724,722</b> |
| <b>Net Cost of Operations</b>  |                      |                      |
| Costs that do not require Resources:   |                      |                      |
| Depreciation and Amortization  | \$ 55,181            | \$ 39,313            |
| Change in Future Funded Liabilities  | 56,485               | (378,925)            |
| Revaluation of Assets and Liabilities  | 28,803               | 23,004               |
| <b>Total Costs that do not require Resources</b>   | <b>140,469</b>       | <b>(316,607)</b>     |
| <b>Net Cost of Operations</b>  | <b>\$ 13,189,023</b> | <b>\$ 12,408,115</b> |

## FINANCIAL REPORTS

### NOTES TO FINANCIAL STATEMENTS

57

## Note 8: Accounting for Leases

### Operating Leases

NMB occupies office space under a lease agreement with the General Services Administration (GSA) that is accounting for as an operating lease. The lease term was for a period of eleven years began on November 1, 2000 and expires on October 31, 2011. NMB pays GSA a standard level users charge for the annual rental adjusted annually for operating cost escalations in accordance with the provisions in the Federal Management Regulations. The operating rent and taxes was to be inflated by 0.76% from 2010 to 2011 to estimate the escalation that the market will yield. GSA is currently renewing a new lease.

### Capital Leases

NMB entered into a capital lease on December 6, 2006 to lease a Xerox machine over a five-year period. The lease provide for ownership to transfer to NMB at the end of the lease period. The present value of the minimum lease payments of \$6,555.84 annually at an interest rate of 9.5 percent was determined to be \$25,215. The Capital Lease Asset is being depreciated on a straight line basis on 5 years. The Capital Lease Liability as of September 30, 2011 and 2009 was \$0 and 5,987, respectively.

NMB entered into a capital lease on October 6, 2008 to lease a Xerox machine over a five-year period. The lease provide for ownership to transfer to NMB at the end of the lease period. The present value of the minimum lease payments of \$1,671 annually at an interest rate of 9.5 percent was determined to be \$6,415.23 for the second machine. The Capital Lease Asset is being depreciated on a straight line basis on 5 years. The Capital Lease Liability as of September 30, 2010 and 2009 was \$2,919 and 4,192, respectively.

NMB entered into a capital lease on October 6, 2008 to lease a Xerox machine over a five-year period. The lease provide for ownership to transfer to NMB at the end of the lease period. The present value of the minimum lease payments of \$7,033 annually at an interest rate of 9.5 percent was determined to be \$27,006 for the last machine. The Capital Lease Asset is being depreciated on a straight line basis on 5 years. The Capital Lease Liability as of September 30, 2010 and 2009 was \$12,289 and 17,646, respectively.

NMB entered into a capital lease on September 10, 2010 to lease a Xerox machine over a five-year period. The lease provide for ownership to transfer to NMB at the end of the lease period. The present value of the minimum lease payments of \$25,807.20 annually at an interest rate of 8.25 percent was determined to be \$102,365.28 for the machine. The Capital Lease Asset is being depreciated on a straight line basis on 5 years. The Capital Lease Liability as of September 30, 2011 and 2010 was \$84,704 and 102,089, respectively.

NMB entered into a capital lease on September 27, 2010 to lease a Xerox machine over a five-year period. The lease provide for ownership to transfer to NMB at the end of the lease period. The present value of the minimum lease payments of \$5,393.52 annually at an interest rate of 8.25 percent was determined to be \$21,393.61 for the machine. The Capital Lease Asset is being depreciated on a straight line basis on 5 years. The Capital Lease Liability as of September 30, 2011 and 2010 was \$17,765 and 21,393, respectively.

## FINANCIAL REPORTS

### NOTES TO FINANCIAL STATEMENTS

58

## Note 9: Contingent Arbitrator Liabilities

By law, NMB is required to appoint an arbitrator if a grievance adjustment board cannot resolve a grievance. NMB appoints an arbitrator by approving the request from the Arbitrator to hear a specific case or a specified group of related cases and a work order setting out the daily rate of compensation, per diem, and travel costs. NMB's policy is to record an obligation at the beginning of each month when it approved an arbitrator's compensation request. Since such arbitrator services are considered nonseverable services, NMB record an estimated obligation amount for the service outstanding due to arbitrator appointments at the end of each fiscal year for financial reporting purposes. Using the caseload table on the website as of September 15, 2011, NMB had a total number of cases that have not been assigned to Arbitrators of 1,224. Based on our historical assumption the contingent liability is \$542,520 which assumes an average of 1.5 days to decide the cases and an average of 122 days @ 300 to hear the cases.

## Note 10: Apportionment Categories of Obligations Incurred

Obligations Incurred reported on the Statement of Budgetary Resources in 2011 and 2010 consists of the following:

| <b>Direct Obligations</b>         | <b>FY 2011</b>       | <b>FY 2010</b>       |
|-----------------------------------|----------------------|----------------------|
| Category A                        | \$ 12,769,920        | \$ 12,822,568        |
| Category B                        | 57,524               | 0                    |
| <b>Total Obligations Incurred</b> | <b>\$ 12,827,444</b> | <b>\$ 12,822,668</b> |



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**FINANCIAL REPORTS**

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**MANAGEMENT  
ASSURANCES**

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59

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## Management Assurances

This section provides information on NMB's compliance with the Federal Managers' Financial Integrity Act (FMFIA) and the Improper Payments Information Act, as well as other management information, initiatives, and issues. FMFIA requires that agencies establish controls that provide reasonable assurance that:

- obligations and costs comply with applicable law;
- assets are safeguarded from waste, loss, unauthorized use, or misappropriation; and
- revenues and expenditures are properly recorded and accounted for.

It also requires the Chairman to provide an assurance statement on the adequacy of management controls.

### Assurance Statement (FMFIA)

The NMB's management is responsible for establishing and maintaining effective internal controls that meet the obligations of FMFIA within their areas of responsibility. Based on the directors' knowledge of daily operations and other management reviews, the NMB is able to provide an unqualified statement of assurance that the internal controls meet the objectives of FMFIA.



**Linda A. Puchala**  
Chairman  
October 26, 2011

### Improper Payments Information Act

The NMB is considered to be at low risk for improper payments since the functional payment areas are limited to traveler reimbursement, commercial vendors for supplies and services, and the payroll EFT payments. The NMB does not administer any entitlement, grant, or loan programs.

### Federal Travel Card Program

The NMB is a full participant in the Federal Travel Card Program, and has issued travel credit cards to employees whose official duties may require frequent travel. The Office of Administration routinely monitors each employee's usage of the travel card to ensure that charge activities are restricted to official government travel-related expenses, and that the employee is paying his/her credit card bills on-time.

During FY 2011, employees were reimbursed for authorized travel-related expenses an average of one business day after receipt of their completed travel voucher.

During this same period, no NMB employee's travel card account was identified as being delinquent and no inappropriate usage of the travel card was identified.

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**FINANCIAL REPORTS**

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**MANAGEMENT  
ASSURANCES**

---

60

**Federal Purchase Card Program**

During this period, the NMB continued its use of the U .S. Government's purchase card program to expedite the purchase of authorized supplies and services. The NMB has an internal process which requires a purchase request for all requests. This purchase request is reviewed and approved by the office director before being submitted to the Office of Administration for action. The OA staff determines the appropriate contracting vehicle to procure the requested goods and/or services. The Office of Administration has an internal operating procedure which supplements the coverage in the Federal Acquisition Regulation (FAR) Subpart 1.6, Contracting Authority and Responsibilities.

**Federal Information Security Management Act (FISMA)**

The Federal Information Security Management Act (FISMA) requires an annual, independent evaluation of each agency's information technology (IT) security program. The NMB continued to work with the Bureau of the Public Debt to perform a review of the NMB's technology security program. The results of the review, form the basis of the NMB's annual FISMA report to OMB, and associated Plans of Action & Milestones (POA&M). The NMB provides its employees and contractors with annual Information Systems Security Awareness training as required by this Act. During this fiscal year, the NMB systems were certified and accredited for the next three years.

**FMFIA Material Weakness In Management Operations**

In the NMB's 2010 financial audit, the auditors identified a material weakness with the untimely recording of obligations related to arbitration services. These services are payments made to the arbitrators, contractors, who hear and decide minor disputes in the railroad industry. After a review of the current procedures which gave raise to this material weakness, the NMB revised its procedures during the last quarter of the fiscal year. The NMB expects to fully eliminate this material weakness during the FY 2012 reporting cycle.

## FINANCIAL REPORTS

## MANAGEMENT ASSURANCES

61

## Statistical Summary of Performance

### Report pursuant to Section 2 of the Integrity Act: Internal Control System

**Overall Compliance: Yes**

#### Number of Material Weaknesses:

| Period Reported | Reported | Corrected | Pending  |
|-----------------|----------|-----------|----------|
| Prior Years     | 0        | N/A       | 0        |
| 2006 Report     | 0        | N/A       | 0        |
| 2007 Report     | 0        | N/A       | 0        |
| 2008 Report     | 0        | N/A       | 0        |
| 2009 Report     | 0        | N/A       | 0        |
| 2010 Report     | 1        | 0         | 1        |
| 2011 Report     | 1        | 0         | 1        |
| <b>Total</b>    | <b>1</b> | <b>0</b>  | <b>1</b> |

#### Pending Material Weaknesses (by function):

| Category                                | Number   | Year First Reported |
|---|----------|---------------------|
| Program management                      | 1        | 2010                |
| Functional management:                  | 0        | N/A                 |
| • Procurement                           | 0        | N/A                 |
| • Grant management                      | 0        | N/A                 |
| • Personnel & organizational management | 0        | N/A                 |
| • ADP security                          | 0        | N/A                 |
| • Payment systems and cash management   | 0        | N/A                 |
| • Loan management and debt collection   | 0        | N/A                 |
| • Property and inventory management     | 0        | N/A                 |
| <b>Total</b>                            | <b>1</b> | <b>2010</b>         |

## FINANCIAL REPORTS

## MANAGEMENT ASSURANCES

62

## Report pursuant to Section 4 of the Integrity Act: Systems and Conformance

**Overall Compliance: Yes**

### Management Systems

| Existing Systems | Total    | In Conformance |
|------------------|----------|----------------|
| Prior Years      | 1        | 1              |
| 2006 Report      | 1        | 1              |
| 2007 Report      | 1        | 1              |
| 2008 Report      | 1        | 1              |
| 2009 Report      | 1        | 1              |
| 2010 Report      | 1        | 1              |
| 2011 Report      | 1        | 1              |
| <b>Total</b>     | <b>1</b> | <b>1</b>       |

### Pending Nonconformance

| Material nonconformance | Reported | Corrected  | Pending  |
|-------------------------|----------|------------|----------|
| Prior Years             | 0        | N/A        | 0        |
| 2006 report             | 0        | N/A        | 0        |
| 2007 report             | 0        | N/A        | 0        |
| 2008 report             | 0        | N/A        | 0        |
| 2009 report             | 0        | N/A        | 0        |
| 2010 report             | 0        | N/A        | 0        |
| 2011 report             | 0        | N/A        | 0        |
| <b>Total</b>            | <b>0</b> | <b>N/A</b> | <b>0</b> |

## FINANCIAL REPORTS

## MANAGEMENT ASSURANCES

63

## Report pursuant to Section 4 of the Integrity Act: Financial Management Systems

**Overall Compliance: Yes, Achieved 1988**

### Number of Material Weaknesses

| Period Reported FY | Reported | Corrected  | Pending  |
|--------------------|----------|------------|----------|
| Prior Years        | 0        | N/A        | 0        |
| 2006 Report        | 0        | N/A        | 0        |
| 2007 Report        | 0        | N/A        | 0        |
| 2008 Report        | 0        | N/A        | 0        |
| 2009 Report        | 0        | N/A        | 0        |
| 2010 Report        | 0        | N/A        | 0        |
| 2011 Report        | 0        | N/A        | 0        |
| <b>Total</b>       | <b>0</b> | <b>N/A</b> | <b>0</b> |

### Pending Nonconformance

| Period Report: FY 2011                               | Number   | Year First Reported |
|--|----------|---------------------|
| General ledger control                               | 0        | N/A                 |
| Interfaces   | 0        | N/A                 |
| Data accuracy, timeliness, comparability, usefulness | 0        | N/A                 |
| Property   | 0        | N/A                 |
| Cash management                                      | 0        | N/A                 |
| Receivables  | 0        | N/A                 |
| Program costs  | 0        | N/A                 |
| Payroll  | 0        | N/A                 |
| Systems documentation                                | 0        | N/A                 |
| Audit trails, security                               | 0        | N/A                 |
| Other  | 0        | N/A                 |
| <b>Total</b>   | <b>0</b> | <b>N/A</b>          |



## Railroad Grievance Arbitration

- 65 NRAB
- 66 SECTION 3
- 68 ONLINE ARBITRATION REPORTS



## RAILROAD GRIEVANCE ARBITRATION

NRAB

65

## National Railroad Adjustment Board Members for FY-11

### NRAB

**Michael C. Lesnik**, Board Chairman

**Marcus J. Ruef**, Board Vice Chairman

#### FIRST DIVISION MEMBERS

**John F. Hennecke**  
NRLC, Chairman

**David B. Wier**  
UTU, Vice Chairman

Douglas W. Davidson  
BLET

Bruce D. Feltmeyer  
UTU

Joseph Flanley, CR

Jeffrey Monahan, CRL

Marcus J. Ruef, BLET

Shannon Farling  
Scott, CSXT

#### SECOND DIVISION MEMBERS

**H. Glen Williams**  
NRLC, Chairman

**James E. Meyer**  
IBEW, Vice Chairman

Joe R. Duncan, IAMAW  
Larry Holbert, SMWIA

Donald E. Grissom  
BRS

Adam Kessel, NJT

Jim M. Kuykendall  
PTRA

Michelle McBride  
BNSF

Noel V. Nihoul, CSXT

John Thacker, F&O

#### THIRD DIVISION MEMBERS

**Michael C. Lesnik**  
NRLC, Chairman

**Gary L. Hart**  
BMWED,  
Vice Chairman

Mary Kay Conley, IHB  
Andrea R. Gansen, UP

Mary C. Gunn, TCIU

Kelly Haley, BRS

Joe Heenan, BNSF

Isaac R. Monroe, HERE

Rick Palmer, AMTRAK

David W. Volz, ATDA

#### FOURTH DIVISION MEMBERS

**Jeffrey F. Rodgers**  
NRLC, Chairman

**William T. Bohne**  
IBEW, Vice Chairman

James R. Cumby  
UTU/YDM

James Patrick Finn  
METRA

Matthew R. Holt, NS

Debra J. Horrell  
ARASA

## Certified Referees for FY-11

#### FIRST DIVISION MEMBERS

Edwin H. Benn  
Steven M. Bierig  
Lisa S. Kohn  
Peter R. Meyers  
Lynette A. Ross  
Barry Simon

#### SECOND DIVISION MEMBERS

James E. Conwayn

#### THIRD DIVISION MEMBERS

Edwin H. Benn  
Steven M. Bierig  
Martin W. Fingerhut  
Patrick Halter  
Ann S. Kenis  
Andrea S. Knapp  
Lisa S. Kohn  
Sherwood Malamud  
William R. Miller  
Margo R. Newman  
Gerald E. Wallin

#### FOURTH DIVISION MEMBERS

Steven R. Friedman  
William R. Miller



## RAILROAD GRIEVANCE ARBITRATION

### SECTION 3 TRIBUNALS

66

## Section 3 Tribunals Established FY-11

### No. of Boards

|                              |    |
|------------------------------|----|
| Public Law                   | 65 |
| Special Boards of Adjustment | 0  |
| Arbitration Board            | 1  |

|              |           |
|--------------|-----------|
| <b>Total</b> | <b>66</b> |
|--------------|-----------|

## 1. Public Law Boards, Special Boards of Adjustment and Arbitration Boards

### 1A. Carriers

Alabama State Dock  
Alabama & Tennessee River Railway  
Belt Railway Company of Chicago  
Bessemer & Lake Erie Railroad  
Birmingham Southern Railroad  
Burlington Northern Santa Fe  
Railway Company  
California Northern Railroad  
Canadian National Railway Company  
Canadian Pacific Railway Company  
Central Railroad of Indiana  
Chicago Central & Pacific Railroad  
Chicago and North Western  
Colorado & Wyoming Railway Company  
Connecticut Southern Railroad  
Consolidated Rail Corporation  
CP Rail System  
CSX Transportation, Inc.  
Dakota, Minnesota & Eastern Railway  
Delaware & Hudson Railroad Company  
Duluth, Missabe & Iron Range Railroad  
Duluth, Winnipeg and Pacific Railroad  
Elgin, Joliet & Eastern Railway  
Florida East Coast Railroad  
Gary Railroad Company  
Grand Trunk Western Railroad  
Great Lakes Central Railroad  
Great Western Railway of Colorado LLC  
Huron and Eastern Railway  
Illinois Central Railroad  
Illinois Central Railroad Gulf  
Indiana Harbor Belt Railroad  
Indiana & Ohio Railroad  
Iowa Interstate Railway  
Iowa Northern Railway Company  
Kansas City Southern

Kansas City Terminal Railway Company  
Long Island Rail Road  
Massachusetts Bay Commuter Railroad  
Metro North Commuter Rail  
Montana Rail Link  
National Railway Labor Conference  
National Railroad Passenger  
Corporation (AMTRAK)  
New England Central Railroad  
New Jersey Transit Authority  
New York & Atlantic Railway  
Norfolk Southern Corporation  
Northeast Illinois Regional Commuter  
Northern Indiana Commuter  
Transportation District  
Pacific Harbor Line, Inc.  
Paducah & Louisville  
Pan Am Railway  
Pennsylvania Southwestern Railroad  
Port Authority TransHudson of NY & NJ  
Portland and Western Railroad  
San Joaquin Railroad  
Soo Line Railroad Company  
South Carolina Public Railways  
South Kansas and Oklahoma Railroad  
Southeastern Pennsylvania  
Transportation Authority  
Terminal Railroad/Alabama State Dock  
Terminal Railroad Association of St. Louis  
Union Pacific Railroad Company  
Union Railroad Company  
Wheeling & Lake Erie Railroad  
White Pass-Yukon Railroad  
Wisconsin Central, Ltd.  
Wisconsin Central Railroad  
York Railway

## RAILROAD GRIEVANCE ARBITRATION

### SECTION 3 TRIBUNALS

67

#### 1B. Unions

American Railway & Airway Supervisors  
Association-TCU  
American Train Dispatchers Association  
Amtrak Service Workers Council  
Association of Commuter Rail Employees  
Brotherhood of Locomotive Engineers  
& Trainmen-IBT  
Brotherhood of Maintenance of  
Way Employees-IBT  
Brotherhood of Railroad Signalmen  
Employees National Conference Committee  
Independent Railway Supervisors Association  
International Association of Machinists  
& Aerospace Workers  
International Association of Teamsters  
International Brotherhood of Blacksmiths  
& Boilermakers  
International Brotherhood of Electrical Workers

International Railway Supervisors Association  
Joint Council of Carmen, Helpers, Coach  
Cleaners & Apprentices  
National Conference of Firemen  
and Oilers, SEIU  
Railway Independent Transit Union  
Sheet Metal Workers International Association  
Transportation Communications  
International Union  
Transport Workers Union of America  
United Steelworkers  
United Transportation Union

#### 1C. Arbitrators (Public Law Board, Special Board of Adjustment or Arbitration Board)

Edwin Benn  
Steven Bierig  
John R. Binau  
Robert Camp  
Michelle Camden  
Dennis Campagna  
Joseph Cassidy  
Brian Clauss  
James E. Conway  
John B. Criswell  
James Darby  
Barbara Deinhardt  
Rodney Dennis  
Francis J. Domzalski  
John Easley  
Dana E. Eischen  
Nancy F. Eischen  
Lewis L. Ellsworth  
Ira Epstein  
Joseph Fagnani

Charles Fischbach  
Gayle Gavin  
Carmelo Gianino  
Charlotte Gold  
Dennis Gonzales  
Robert A. Grey  
Patrick Halter  
Don Hampton  
Richard Hanft  
Robert L. Hicks  
Michele Hoyman  
Joshua M. Javits  
Michael Jordan  
Ann S. Kenis  
Richard D. Kimbel  
Jonathan Klein  
Joyce Klein  
Lisa S. Kohn  
Charles W. Kohler  
Sinclair Kossoff

Mitchell Kraus  
Stanley Kravits  
George Larney  
James Litton  
Charles Loughran  
Frank Lynch  
Roger MacDougall  
Sherwood Malamud  
Herbert Marx  
Peter R. Meyers  
William Miller  
James E. Nash  
Margo Newman  
Daniel Nielsen  
Kenneth J. O'Brien  
Robert M. O'Brien  
Joan Parker  
Robert Perkovich  
Robert E. Peterson  
Francis X. Quinn

Richard H. Radek  
David Ray  
Robert G. Richter  
Thomas N. Rinaldo  
Sean J. Rogers  
Lynette A. Ross  
Martin Scheinman  
Barry E. Simon  
Josef Sirefman  
David Twomey  
M. David Vaughn  
Gerald E. Wallin  
Lamont Walton  
Leon Werb  
Elizabeth C. Wesman  
Barbara Zausner  
Marty E. Zusman

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**RAILROAD GRIEVANCE  
ARBITRATION**

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**SECTION 3 TRIBUNALS/  
ONLINE ARBITRATION REPORTS**

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68

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## 2. Labor Protective Provisions

Robert E. Peterson

**Carrier** Canadian National  
**Union** United Transportation Union

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## 3. Union Shops – NA

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### Online Arbitration Reports

The following online reports are “real time”; they are updated online as the NMB updates the underlying Case Tracking System.

These reports are available on the Arbitration webpage at  
<http://www.nmb.gov/arbitration/amenu.html>.

#### **NRAB Open Case Report**

The NRAB Open Case Report shows all of the cases that are currently open for the NRAB. Shown in this report are the Arbitrator (if assigned), the parties, the date the case was opened, the date the case was deadlocked and the date the case was heard.

#### **Arbitrators’ Caseload Report**

This report lists by Arbitrator all of the open cases to which each Arbitrator is assigned. The report shows the parties involved, the date the case was opened and the date the case was heard. Cases that have not been closed within 6 months of the hearing date are deemed late and this is also shown in the report.



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## Supporting Reports & Tables

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|    |             |
|----|-------------|
| 70 | CASE TABLES |
| 77 | CASE RECORD |
| 87 | GLOSSARY    |
| 91 | ACRONYMS    |



## SUPPORTING REPORTS & TABLES

### CASE TABLES

70

## Case Tables

**Table 1: Number of Cases  
Received and Closed**

|                       | FY-2011 | FY-2010 | FY-2009 | FY-2008 | FY-2007 | FY-2006 | Average<br>2006-10 |
|-----------------------|---------|---------|---------|---------|---------|---------|--------------------|
| <b>Mediation</b>      |         |         |         |         |         |         |                    |
| Start-pending         | 84      | 74      | 44      | 64      | 75      | 71      | 65.6               |
| New                   | 48      | 43      | 58      | 20      | 34      | 37      | 38.4               |
| Sum                   | 132     | 117     | 102     | 84      | 109     | 108     | 104.0              |
| Closed                | 41      | 33      | 28      | 40      | 45      | 33      | 35.8               |
| End-pending           | 91      | 84      | 74      | 44      | 64      | 75      | 68.2               |
| <b>ADR*</b>           |         |         |         |         |         |         |                    |
| Start-pending         | 22      | 23      | 27      | 31      | 17      | 18      | 23.2               |
| New                   | 46      | 28      | 15      | 44      | 44      | 68      | 39.8               |
| Sum                   | 68      | 51      | 42      | 75      | 61      | 86      | 63.0               |
| Closed                | 45      | 29      | 19      | 48      | 30      | 69      | 39.0               |
| End-pending           | 23      | 22      | 23      | 27      | 31      | 17      | 24.0               |
| <b>Representation</b> |         |         |         |         |         |         |                    |
| Start Pending         | 9       | 8       | 2       | 4**     | 0       | 0       | 2.8                |
| New                   | 41      | 40      | 46      | 45      | 25      | 46      | 40.4               |
| Sum                   | 50      | 48      | 48      | 49      | 25      | 46      | 43.2               |
| Closed                | 48      | 39      | 40      | 47      | 24      | 46      | 39.2               |
| End-Pending           | 2       | 9       | 8       | 2       | 1       | 0       | 4.0                |
| <b>Arbitration</b>    |         |         |         |         |         |         |                    |
| Start-pending         | 2770    | 4037**  | 6212    | 5551    | 4664    | 4581**  | 5009.0             |
| New                   | 3908    | 4381    | 4920    | 6056    | 4929    | 5537    | 5164.6             |
| Sum                   | 6678    | 8418    | 11132   | 11607   | 9593    | 10118   | 10173.6            |
| Closed                | 4294    | 5648    | 7073    | 5395    | 4042    | 5454    | 5522.4             |
| End-pending           | 2384    | 2770    | 4059    | 6212    | 5551    | 4664    | 4651.2             |

\* ADR caseload counts include OP and OP-ODR cases only in FY-2006 through FY-2010.

\*\* Caseload adjusted based on case audit.

## SUPPORTING REPORTS & TABLES

### CASE TABLES

71

## Case Tables

**Table 2: Representation  
Case Disposition**

|                                      | Number of<br>Cases | Number of<br>Crafts or<br>Classes | Number of<br>Employees<br>Involved | Number of<br>Employees<br>Participating |
|--------------------------------------|--------------------|-----------------------------------|------------------------------------|---|
| <b>Railroads</b>                     |                    |                                   |                                    |   |
| Certifications                       | 8                  | 8                                 | 67                                 | 55                                      |
| Dismissals                           | 9                  | 9                                 | 25                                 | 11                                      |
| <b>Totals</b>                        | <b>17</b>          | <b>17</b>                         | <b>92</b>                          | <b>66</b>                               |
| <b>Airlines</b>                      |                    |                                   |                                    |   |
| Certifications                       | 15                 | 15                                | 48,951                             | 40,509                                  |
| Dismissals                           | 16                 | 16                                | 51,615                             | 44,886                                  |
| <b>Totals</b>                        | <b>31</b>          | <b>31</b>                         | <b>100,566</b>                     | <b>85,395</b>                           |
| <b>Totals-Railroads and Airlines</b> | <b>48</b>          | <b>48</b>                         | <b>100,646</b>                     | <b>85,461</b>                           |



## SUPPORTING REPORTS & TABLES

### CASE TABLES

72

## Case Tables

**Table 3: Cases Closed by Major Groups of Employees**

| <b>Railroads</b>                           | <b>Total Cases</b> | <b>Representation Cases</b> | <b>Mediation Cases</b> |
|--|--------------------|-----------------------------|------------------------|
| Carmen                                     | 2                  | 1                           | 1                      |
| Clerks                                     | 1                  | 0                           | 1                      |
| Conductors                                 | 1                  | 0                           | 1                      |
| Electrical Workers                         | 1                  | 0                           | 1                      |
| Locomotive Engineers                       | 3                  | 0                           | 3                      |
| Machinists                                 | 1                  | 0                           | 1                      |
| Maintenance                                | 1                  | 0                           | 1                      |
| Maintenance of Way                         | 6                  | 2                           | 4                      |
| Operating and Non-Operating Employees      | 3                  | 2                           | 1                      |
| Signalmen                                  | 3                  | 2                           | 1                      |
| Train Dispatchers                          | 1                  | 0                           | 1                      |
| Train and Engine Service                   | 7                  | 6                           | 1                      |
| Yardmasters                                | 2                  | 1                           | 1                      |
| Combined Groups, Railroad                  | 1                  | 1                           | 0                      |
| Miscellaneous, Railroad                    | 7                  | 2                           | 5                      |
| <b>Railroad Total</b>                      | <b>40</b>          | <b>17</b>                   | <b>23</b>              |
| <b>Airlines</b>                            | <b>Total Cases</b> | <b>Representation Cases</b> | <b>Mediation Cases</b> |
| Clerks                                     | 1                  | 0                           | 1                      |
| Fleet and Passenger Service Employees      | 4                  | 3                           | 1                      |
| Fleet Service Employees                    | 3                  | 2                           | 1                      |
| Flight Attendants                          | 8                  | 4                           | 4                      |
| Flight Dispatchers                         | 3                  | 3                           | 0                      |
| Flight Kitchen                             | 1                  | 0                           | 1                      |
| Engineers and Related                      | 1                  | 1                           | 0                      |
| Ground School Instructors                  | 2                  | 1                           | 1                      |
| Mechanics and Related Employees            | 7                  | 3                           | 4                      |
| Office Clerical Employees                  | 1                  | 1                           | 0                      |
| Passenger Service Employees                | 1                  | 1                           | 0                      |
| Pilots                                     | 10                 | 5                           | 5                      |
| Stock and Stores                           | 5                  | 5                           | 0                      |
| Miscellaneous, Airlines                    | 2                  | 2                           | 0                      |
| <b>Airline Total</b>                       | <b>49</b>          | <b>31</b>                   | <b>18</b>              |
| <b>Grand Total, Railroads and Airlines</b> | <b>89</b>          | <b>48</b>                   | <b>41</b>              |

## SUPPORTING REPORTS & TABLES

### CASE TABLES

73

## Case Tables

**Table 4: Craft or Class Determinations in Representation Cases**

| <b>Railroads</b>                                     | <b>Number<br/>of Cases</b> | <b>Number of<br/>Craft or Class<br/>Determinations</b> | <b>Number of<br/>Employees</b> | <b>Percent<sup>1</sup> of<br/>Employees<br/>Involved</b> |
|--|----------------------------|--|--------------------------------|--|
| Clerical Office, Station and<br>Storehouse Employees | 0                          | 0  | 0                              | 0  |
| Carmen   | 1                          | 1  | 0                              | 0  |
| Electrical Workers                                   | 0                          | 0  | 0                              | 0  |
| Locomotive Engineers                                 | 0                          | 0  | 0                              | 0  |
| Locomotive Firemen<br>and Hostlers                   | 0                          | 0  | 0                              | 0  |
| Locomotive Maintenance<br>Employees                  | 0                          | 0  | 0                              | 0  |
| Machinists   | 0                          | 0  | 0                              | 0  |
| Maintenance of Way<br>Employees                      | 2                          | 2  | 12                             | ..   |
| Operating/Non-Operating<br>Employees                 | 2                          | 2  | 16                             | 0  |
| Sheet Metal Workers                                  | 0                          | 0  | 0                              | 0  |
| Signalmen  | 2                          | 2  | 11                             | ..   |
| Train Dispatchers                                    | 0                          | 0  | 0                              | ..   |
| Train and Engine Service<br>Employees                | 0                          | 0  | 0                              | ..   |
| Train, Engine and<br>Yard Service Employees          | 6                          | 6  | 15                             | ..   |
| Transportation Operations<br>Employees               | 0                          | 0  | 0                              | ..   |
| Yardmasters  | 1                          | 1  | 1                              | ..   |
| Combined Groups, Railroad                            | 1                          | 1  | 0                              | ..   |
| Miscellaneous, Railroad                              | 2                          | 2  | 11                             | ..   |
| <b>Railroad Total</b>                                | <b>17</b>                  | <b>17</b>  | <b>66</b>                      | <b>..</b>  |

<sup>1</sup> Percent listing for each group represents the percentage of the 100,646 employees involved in all railroad and airline cases during fiscal year 2011.  
 (..) Less than one percent.



## SUPPORTING REPORTS & TABLES

### CASE TABLES

74

## Case Tables

**Table 4: Craft or Class Determinations in Representation Cases (cont.)**

| Airlines                                   | Number of Cases | Number of Craft or Class Determinations | Number of Employees | Percent <sup>1</sup> of Employees Involved |
|--|-----------------|---|---------------------|--|
| Cockpit Crew Members                       | 0               | 0                                       | 0                   | 0  |
| Engineers and Related Employees            | 1               | 1                                       | 0                   | 0  |
| Fleet and Passenger Service Employees      | 3               | 3                                       | 3,672               | 4  |
| Fleet Service Employees                    | 2               | 2                                       | 21,715              | 22   |
| Flight Attendants                          | 4               | 4                                       | 40,934              | 41   |
| Flight Crew Training Instructors           | 0               | 0                                       | 0                   | 0  |
| Flight Deck Crew Members                   | 0               | 0                                       | 0                   | 0  |
| Flight Dispatchers                         | 3               | 3                                       | 153                 | ..   |
| Flight Engineers                           | 0               | 0                                       | 0                   | 0  |
| Flight Simulator Engineers                 | 0               | 0                                       | 0                   | 0  |
| Ground School Instructors                  | 1               | 1                                       | 20                  | ..   |
| Maintenance Training Specialists           | 0               | 0                                       | 0                   | 0  |
| Mechanics and Related Employees            | 3               | 3                                       | 771                 | 1  |
| Office Clerical Employees                  | 1               | 1                                       | 0                   | 0  |
| Passenger Service Employees                | 1               | 1                                       | 12,518              | 12   |
| Pilots                                     | 5               | 5                                       | 4,892               | 5  |
| Stock and Stores Employees                 | 5               | 5                                       | 720                 | 1  |
| Combined Groups, Airlines                  | 0               | 0                                       | 0                   | 0  |
| Miscellaneous, Airlines                    | 2               | 2                                       | 0                   | 0  |
| <b>Airline Total</b>                       | <b>31</b>       | <b>31</b>                               | <b>85,395</b>       | <b>85</b>                                  |
| <b>Grand Total, Railroads and Airlines</b> | <b>48</b>       | <b>48</b>                               | <b>85,461</b>       | <b>85</b>                                  |

<sup>1</sup> Percent listing for each group represents the percentage of the 100,646 employees involved in all railroad and airline cases during fiscal year 2011.  
 (..) Less than one percent.

## SUPPORTING REPORTS & TABLES

### CASE TABLES

75

## Case Tables

**Table 5: –Crafts or Classes Certified in Representation Cases**

|   | National Organizations |                     |                     | Local Unions<br>and/or Individuals |                     |                     | Totals            |                     |                     |
|---|------------------------|---------------------|---------------------|------------------------------------|---------------------|---------------------|-------------------|---------------------|---------------------|
|   | Craft or<br>Class      | Employees<br>Number | Involved<br>Percent | Craft or<br>Class                  | Employees<br>Number | Involved<br>Percent | Craft or<br>Class | Employees<br>Number | Involved<br>Percent |
| <b>Railroads</b>                                  |                        |                     |                     |                                    |                     |                     |                   |                     |                     |
| Representation Acquired:                          |                        |                     |                     |                                    |                     |                     |                   |                     |                     |
| Elections   | 7                      | 47                  | ..                  | 0                                  | 0                   | 0                   | 7                 | 47                  | ..                  |
| Proved Authorizations                             | 0                      | 0                   | 0                   | 0                                  | 0                   | 0                   | 0                 | 0                   | 0                   |
| Representation Changed:                           |                        |                     |                     |                                    |                     |                     |                   |                     |                     |
| Elections   | 0                      | 0                   | 0                   | 0                                  | 0                   | 0                   | 0                 | 0                   | 0                   |
| Proved Authorizations                             | 0                      | 0                   | 0                   | 0                                  | 0                   | 0                   | 0                 | 0                   | 0                   |
| Representation Unchanged:                         |                        |                     |                     |                                    |                     |                     |                   |                     |                     |
| Elections   | 0                      | 0                   | 0                   | 0                                  | 0                   | 0                   | 0                 | 0                   | 0                   |
| Proved Authorizations                             | 0                      | 0                   | 0                   | 0                                  | 0                   | 0                   | 0                 | 0                   | 0                   |
| <b>Total, Railroads</b>                           | <b>7</b>               | <b>47</b>           | <b>..</b>           | <b>0</b>                           | <b>0</b>            | <b>0</b>            | <b>7</b>          | <b>47</b>           | <b>..</b>           |
| <b>Airlines</b>                                   |                        |                     |                     |                                    |                     |                     |                   |                     |                     |
| Representation Acquired:                          |                        |                     |                     |                                    |                     |                     |                   |                     |                     |
| Elections   | 10                     | 5,049               | 5                   | 0                                  | 0                   | 0                   | 10                | 5,049               | 5                   |
| Proved Authorizations                             | 0                      | 0                   | 0                   | 0                                  | 0                   | 0                   | 0                 | 0                   | 0                   |
| Representation Changed:                           |                        |                     |                     |                                    |                     |                     |                   |                     |                     |
| Elections   | 0                      | 0                   | 0                   | 0                                  | 0                   | 0                   | 0                 | 0                   | 0                   |
| Proved Authorizations                             | 0                      | 0                   | 0                   | 0                                  | 0                   | 0                   | 0                 | 0                   | 0                   |
| Representation Unchanged:                         |                        |                     |                     |                                    |                     |                     |                   |                     |                     |
| Elections   | 4                      | 35,460              | 35                  | 0                                  | 0                   | 0                   | 4                 | 35,460              | 35                  |
| Proved Authorizations                             | 0                      | 0                   | 0                   | 0                                  | 0                   | 0                   | 0                 | 0                   | 0                   |
| <b>Total, Airlines</b>                            | <b>14</b>              | <b>40,509</b>       | <b>40</b>           | <b>0</b>                           | <b>0</b>            | <b>0</b>            | <b>14</b>         | <b>40,509</b>       | <b>40</b>           |
| <b>Total, Combined Railroads<br/>and Airlines</b> | <b>21</b>              | <b>40,556</b>       | <b>40</b>           | <b>0</b>                           | <b>0</b>            | <b>0</b>            | <b>21</b>         | <b>40,556</b>       | <b>40</b>           |

1 Percent listing for each group represents the percentage of the 100,646 employees involved in all railroad and airline cases during fiscal year 2011.

(..) Less than one percent.

Note: These figures do not include cases that were withdrawn or dismissed. Because of rounding, sums of individual items may not equal totals.

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**SUPPORTING REPORTS  
& TABLES**

---

**CASE TABLES**

---

76

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## Case Tables

**Table 6: Strikes in the Airline Industry**

None

**Table 7: Strikes in the Railroad Industry**

None

**Table 8: Presidential Emergency Boards (RLA, Section 10)**

None

**Table 9: Presidential Emergency Boards (RLA, Section 9a)**

None

## SUPPORTING REPORTS & TABLES

### CASE RECORDS

77

## Case Records

### 1A: Airline Mediation Cases Docketed

| Carrier                            | Union | Craft/Class                           |
|------------------------------------|-------|---------------------------------------|
| Lynx Aviation, Inc.                | AFA   | Flight Attendants                     |
| AirTran Airways                    | AFA   | Flight Attendants                     |
| Continental Airlines               | IAM   | Flight Attendants                     |
| CommutAir                          | ALPA  | Pilots                                |
| Continental Airlines               | ALPA  | Pilots                                |
| United Airlines                    | ALPA  | Pilots                                |
| US Airways                         | AFA   | Flight Attendants                     |
| Southwest Airlines                 | TWU   | Dispatchers & Assistant Dispatchers   |
| Northern Air Cargo                 | IBT   | Crewmembers                           |
| Piedmont Airlines                  | AFA   | Flight Attendants                     |
| Republic Airlines                  | IBT   | Flight Deck Crew Members              |
| United Airlines                    | IBT   | Mechanics & Related Employees         |
| ExpressJet Airlines, Inc           | IAM   | Flight Attendants                     |
| Air Wisconsin Airlines Corporation | AFA   | Flight Attendants                     |
| US Airways                         | IAM   | Maintenance Training Specialist       |
| US Airways                         | IAM   | Mechanics & Related Employees         |
| PSA Airlines, Inc.                 | ALPA  | Pilots                                |
| Hacor, Inc.                        | IBT   | Flight Kitchen & Commissary Employees |
| Ryan International Airlines        | AFA   | Flight Attendants                     |
| Compass Airlines, Inc              | ALPA  | Flight Attendants                     |

## SUPPORTING REPORTS & TABLES

### CASE RECORDS

78

## Case Records

### 1B: Railroad Mediation Cases Docketed

| Carrier   | Union | Craft/Class                                |
|---|-------|--|
| Long Island Rail Road                                 | IAM   | Machinists                                 |
| Canadian National Railway                             | BLET  | Locomotive Engineers                       |
| Canadian National Railway                             | BLET  | Locomotive Engineers                       |
| Long Island Rail Road                                 | NCFO  | Laborers                                   |
| Long Island Rail Road                                 | IBEW  | Electrical Workers                         |
| Southeastern Pennsylvania<br>Transportation Authority | BMWED | Maintenance of Way Employees               |
| New York New Jersey Rail, LLC                         | SIU   | Train & Engine Service Employees           |
| National Carriers Conference<br>Committee             | RLBC  | Boilermakers                               |
| Pacific and Arctic Railway<br>and Navigation Company  | IBT   | Shop Crafts                                |
| Indiana Southern Railroad                             | IAM   | Maintenance of Way Employees               |
| North Carolina & Virginia Railroad                    | IAM   | Maintenance of Way Employees               |
| Progressive Rail                                      | UTU   | Conductors                                 |
| Fulton County Railroad, LLC                           | UTU   | Train & Engine Service Employees           |
| Illinois Central Railroad                             | BRS   | Signalmen                                  |
| Pacific Harbor Line, Inc.                             | BLET  | Engineers                                  |
| Great Western Railway<br>of Colorado, LLC             | BLET  | Locomotive Engineers                       |
| Long Island Rail Road                                 | TCU   | Clerks                                     |
| Long Island Rail Road                                 | TCU   | Dispatchers                                |
| Long Island Rail Road                                 | TCU   | Block Operator                             |
| Long Island Rail Road                                 | TCU   | Exception 5                                |
| Wisconsin Central Ltd.                                | BRS   | Signal & Communications Maintainers        |
| Pan Am Railways                                       | ATDA  | Train Dispatchers                          |
| Pan Am Railways                                       | BLET  | Locomotive Engineers                       |
| Long Island Rail Road                                 | UTU   | Trainmen                                   |
| Long Island Rail Road                                 | UTU   | Maintenance of Way Employees               |
| Long Island Rail Road                                 | UTU   | Supervisors of Maintenance<br>of Way Dept. |
| Long Island Rail Road                                 | UTU   | Carmen                                     |
| Long Island Rail Road                                 | UTU   | Special Service Attendants                 |



## SUPPORTING REPORTS & TABLES

### CASE RECORDS

79

## Case Records

### 1C: Airlines Mediation Cases Closed

| Carrier                      | Union | Craft/Class  |
|------------------------------|-------|--|
| AirTran Airways              | ALPA  | Pilots   |
| Great Lakes Airlines         | UTU   | Flight Attendants  |
| Pinnacle Airlines, Inc.      | ALPA  | Pilots   |
| Trans States Airlines        | ALPA  | Pilots   |
| United Parcel Service        | IBT   | Mechanics and Related Employees                          |
| American Airlines            | TWU   | Ground School Instructors                                |
| Miami Air International      | AFA   | Flight Attendants  |
| El Al Israel Airlines        | IAM   | Mechanics and Related Employees                          |
| United Airlines              | ALPA  | Pilots   |
| Continental Airlines         | IBT   | Mechanics and Related Employees                          |
| PSA Airlines, Inc.           | IAM   | Mechanics and Related Employees                          |
| Horizon Air Industries, Inc. | IBT   | Pilots   |
| Southwest Airlines           | IBT   | Stock Clerks   |
| PLH Aviation Services, Inc.  | IBT   | Fleet Service Employees                                  |
| Alaska Airlines              | IAM   | Clerical, Office, Fleet & Passenger<br>Service Employees |
| AirTran Airways              | AFA   | Flight Attendants  |
| Continental Airlines         | IAM   | Flight Attendants  |
| Hacor, Inc.                  | IBT   | Flight Kitchen & Commissary Employees                    |

## SUPPORTING REPORTS & TABLES

### CASE RECORDS

80

## Case Records

### 1D: Railroad Mediation Cases Closed

| Carrier  | Union | Craft/Class                             |
|--|-------|---|
| Montana Rail Link, Inc.                            | ATDA  | Yardmasters                             |
| Massachusetts Bay Commuter Railroad Company        | TCU   | Clerks                                  |
| Massachusetts Bay Commuter Railroad Company        | TCU   | Supervisors of Maintenance of Way Dept. |
| Massachusetts Bay Commuter Railroad Company        | JCC   | Carmen                                  |
| Massachusetts Bay Commuter Railroad Company        | NCFO  | Laborers                                |
| Massachusetts Bay Commuter Railroad Company        | SMWIA | Sheet Metal Workers                     |
| Massachusetts Bay Commuter Railroad Company        | IBEW  | Electrical Workers                      |
| Massachusetts Bay Commuter Railroad Company        | BRS   | Signalmen                               |
| Massachusetts Bay Commuter Railroad Company        | IBB   | Boilermakers-Blacksmiths                |
| Massachusetts Bay Commuter Railroad Company        | BMWED | Maintenance of Way Employees            |
| Massachusetts Bay Commuter Railroad Company        | IAM   | Machinists                              |
| Massachusetts Bay Commuter Railroad Company        | ATDD  | Train Dispatchers                       |
| Massachusetts Bay Commuter Railroad Company        | UTU   | Conductors & Assistant Conductors       |
| South Central Florida Express                      | IAM   | Operating/Non-Operating Employees       |
| South Central Florida Express                      | IAM   | Mechanics                               |
| South Central Florida Express                      | IAM   | Maintenance of Way Employees            |
| South Central Florida Express                      | IAM   | Office Clerical Employees [AL c/c]      |
| Montreal, Maine & Atlantic Railway                 | BLET  | Locomotive Engineers                    |
| Canadian National Railway                          | BLET  | Locomotive Engineers                    |
| Canadian National Railway                          | BLET  | Locomotive Engineers                    |
| Southeastern Pennsylvania Transportation Authority | BMWED | Maintenance of Way Employees            |
| Indiana Southern Railroad                          | IAM   | Maintenance of Way Employees            |
| Fulton County Railroad, LLC                        | UTU   | Train & Engine Service Employees        |

## SUPPORTING REPORTS & TABLES

### CASE RECORDS

81

## Case Records

### 2A: ADR Cases Docketed

| Case Type | Carrier/Entity                                    | Union  | Group                         |
|-----------|---|--------|-------------------------------|
| F         | Air Wisconsin Airlines Corp.                      | ALPA   | Pilots                        |
| F         | Hawaiian Airlines                                 | AFA    | Flight Attendants             |
| F         | CSX Transportation                                | --     | --                            |
| F         | Northern Indiana Commuter Transportation District | UTU    | Conductors                    |
| GM        | National Railroad Passenger Corp.                 | UTU    | Train Service Employees       |
| GM        | United Airlines                                   | IBT    | Mechanics & Related Employees |
| GM        | Miami Air International                           | AFA    | Flight Attendants             |
| GM        | Colgan Air, Inc.                                  | USW    | Flight Attendants             |
| GM        | Southwest Airlines                                | SWAPA  | Pilots                        |
| GM        | America West                                      | AFA    | Flight Attendants             |
| GM        | US Airways  | AFA    | Flight Attendants             |
| GM        | Capital Cargo International Airlines              | ALPA   | Crewmembers                   |
| GM        | Brendan Airways, LLC                              | IBT    | Pilots                        |
| GM        | Wisconsin Central Railroad                        | BLET   | Trainmen                      |
| GM        | New Jersey Transit Rail Operations                | BRS    | Signalmen                     |
| GM        | Southwest Airlines                                | SWAPA  | Pilots                        |
| GM        | Air Transport International LLC                   | ALPA   | Pilots                        |
| T         | National Railroad Passenger Corp.                 | UTU    | Train Service Employees       |
| T         | --  | NJASAP | Pilots                        |
| T         | --  | IAM    | Mechanics & Related Employees |
| T         | BNSF Railway                                      | IBEW   | --                            |
| T         | Gulfstream International Airlines                 | IBT    | Pilots                        |
| T         | CSX Transportation                                | --     | --                            |
| T         | United Airlines                                   | IBT    | Mechanics & Related Employees |
| T         | CSX Transportation                                | IAM    | Machinists                    |
| T         | Air Wisconsin Airlines Corporation                | ALPA   | Pilots                        |
| T         | British Airways                                   | IAM    | Reservation & Ticket Agents   |
| T         | --  | UTU    | Yardmasters                   |
| T         | --  | BRS    | Signalmen                     |
| T         | --  | IAM    | Machinists                    |
| T         | --  | IBT    | Pilots                        |
| T         | --  | NJASAP | Pilots                        |
| T         | --  | --     | --                            |
| T-ODR     | CSX Transportation                                | BRS    | --                            |
| T-ODR     | --  | UTU    | Conductors                    |
| T-ODR     | --  | UTU    | Conductors                    |
| T         | --  | IAM    | Fleet Service Employees       |
| T         | Hawaiian Airlines                                 | AFA    | Flight Attendants             |
| T         | All railroads                                     | --     | --                            |
| T         | All railroads                                     | --     | --                            |
| T         | American Eagle                                    | AFA    | Flight Attendants             |
| T         | Northern Indiana Commuter Transportation District | UTU    | Conductors                    |
| T         | --  | --     | --                            |
| T         | Atlantic Southeast Airlines                       | AFA    | Flight Attendants             |
| T         | --  | IAM    | All                           |
| T         | --  | IAM    | All                           |

## SUPPORTING REPORTS & TABLES

### CASE RECORDS

82

## Case Records

### 2B: ADR Cases Closed

| Case Type | Carrier/Entity                                    | Union  | Group                                    |
|-----------|---|--------|--|
| F-ODR     | CSX Transportation                                | BLET   | Engineers and Related Employees [AL c/c] |
| F         | US Airways  | AFA    | Flight Attendants                        |
| F         | Air Wisconsin Airlines Corp.                      | ALPA   | Pilots                                   |
| F         | CSX Transportation                                | --     | --                                       |
| GM        | Comair  | ALPA   | Pilots                                   |
| GM        | Pinnacle Airlines, Inc.                           | USW    | Flight Attendants                        |
| GM        | Capital Cargo International Airlines              | ALPA   | Pilots                                   |
| GM        | United Airlines                                   | IBT    | Mechanics & Related Employees            |
| GM        | Colgan Air, Inc.                                  | USW    | Flight Attendants                        |
| GM        | Southwest Airlines                                | SWAPA  | Pilots                                   |
| GM        | America West                                      | AFA    | Flight Attendants                        |
| GM        | US Airways  | AFA    | Flight Attendants                        |
| GM        | New Jersey Transit Rail Operations                | BRS    | Signalmen                                |
| T-ODR     | CSX Transportation                                | IAM    | Machinists                               |
| T         | Alaska Airlines                                   | ALPA   | Pilots                                   |
| T         | Continental Micronesia                            | IAM    | Flight Attendants                        |
| T         | American Eagle                                    | AFA    | Flight Attendants                        |
| T         | National Railroad Passenger Corp.                 | UTU    | Train Service Employees                  |
| T         | --  | NJASAP | Pilots                                   |
| T         | --  | IAM    | Mechanics & Related Employees            |
| T         | BNSF Railway                                      | IBEW   | --                                       |
| T         | Gulfstream International Airlines                 | IBT    | Pilots                                   |
| T         | CSX Transportation                                | --     | --                                       |
| T         | United Airlines                                   | IBT    | Mechanics & Related Employees            |
| T         | CSX Transportation                                | IAM    | Machinists                               |
| T         | Air Wisconsin Airlines Corporation                | ALPA   | Pilots                                   |
| T         | British Airways                                   | IAM    | Reservation & Ticket Agents              |
| T         | --  | UTU    | Yardmasters                              |
| T         | --  | BRS    | Signalmen                                |
| T         | --  | IAM    | Machinists                               |
| T         | --  | IBT    | Pilots                                   |
| T         | --  | NJASAP | Pilots                                   |
| T         | --  | --     | --                                       |
| T-ODR     | CSX Transportation                                | BRS    | --                                       |
| T-ODR     | --  | UTU    | Conductors                               |
| T-ODR     | --  | UTU    | Conductors                               |
| T         | --  | IAM    | Fleet Service Employees                  |
| T         | Hawaiian Airlines                                 | AFA    | Flight Attendants                        |
| T         | All railroads                                     | --     | --                                       |
| T         | All railroads                                     | --     | --                                       |
| T         | Northern Indiana Commuter Transportation district | UTU    | Conductors                               |
| T         | --  | --     | --                                       |
| T         | Atlantic Southeast Airlines                       | AFA    | Flight Attendants                        |
| T         | --  | IAM    | All                                      |
| T         | --  | IAM    | All                                      |

## SUPPORTING REPORTS & TABLES

### CASE RECORDS

83

## Case Records

### 3A: Airline Representation Cases Docketed

| Carrier   | Union                 | Craft/Class                           |
|---|-----------------------|---------------------------------------|
| Air Serv Corp.  | SSOBA                 | Security Officers                     |
| Allegiant Air   | TWU                   | Flight Attendants                     |
| Allegiant Air   | TWU                   | Flight Dispatchers                    |
| AirTran Airways   | IAM                   | Fleet and Passenger Service Employees |
| Atlantic Southeast Airlines   | TWU-PAFCA             | Flight Dispatchers                    |
| Bristow U.S.  | OPEIU                 | Mechanics and Related Employees       |
| Citation Air  | IBT                   | Pilots                                |
| Continental Airlines  | IAM                   | Stock and Stores Employees            |
| ExpressJet  | IBT                   | Stock and Stores Employees            |
| JetBlue Airways Corp.   | ALPA                  | Pilots                                |
| NetJets Services  | IBT                   | Flight Dispatchers                    |
| Northwest Airlines/Delta Air Lines  | IAM                   | Office Clerical Employees             |
| Omni Air International  | AFA                   | Flight Attendants                     |
| Regional Elite Airline Services   | USW                   | Fleet and Passenger Service Employees |
| Republic Airways, Shuttle America<br>Chautauqua Airlines, Frontier<br>Airlines, and Lynx Aviation | IBT-FAPA-<br>ALPA-UTU | Pilots                                |
| Ryan International Airlines   | IBT                   | Mechanics and Related Employees       |
| Sky King Airlines   | IBT                   | Pilots                                |
| Southwest Airlines  | AMFA                  | Maintenance Controllers               |
| United Air Lines/Continental Airlines   | AFA-IAM               | Flight Attendants                     |
| United Air Lines/Continental Airlines<br>(R-7274)   | IFPTE                 | Engineers and Related Employees       |
| United Air Lines/Continental Airlines<br>(R-7301)   | IFPTE                 | Engineers and Related Employees       |
| United Air Lines/Continental Airlines   | IAM-IBT               | Fleet Service Employees               |
| United Air Lines/Continental Airlines   | IAM                   | Stock Clerks                          |
| Vision Airlines   | UTU                   | Pilots                                |



## SUPPORTING REPORTS & TABLES

### CASE RECORDS

84

## Case Records

### 3B: Railroad Representation Cases Docketed

| Carrier  | Union        | Craft/Class                        |
|--|--------------|------------------------------------|
| Chicago, Ft. Wayne & Eastern RR                          | BRS          | Signalmen                          |
| Columbia & Cowlitz Ry. and Patriot Woods RR              | UTU-IAM      | Operating/Non-Operating Employees  |
| Conecuh Valley RR, Three Notch RR & Wiregrass Central RR | UTU          | Train and Engine Service Employees |
| Georgia & Florida Ry.                                    | UTU          | Maintenance of Way Employees       |
| Illinois Central RR                                      | BCW-IBEW     | Electrical Workers                 |
| Indiana RR Co.   | TCIU         | Mechanical Department Employees    |
| Industrial Ry. Switching & Services                      | UTU          | Train and Engine Service Employees |
| Long Island RR   | NTSA         | Facilities and Staff Managers      |
| Madison Terminal Ry.                                     | BRS          | Signalmen                          |
| Meridian & Bigbee RR                                     | James Carson | Maintenance of Way Employees       |
| New Orleans & Gulf Coast Ry.                             | UTU          | Train and Engine Service Employees |
| Otter Tail Valley RR                                     | UTU          | Train and Engine Service Employees |
| Raritan Central Ry.                                      | UTU          | Train and Engine Service Employees |
| South Buffalo Ry.  | UTU          | Yardmasters                        |
| Western RR   | UTU          | Carmen                             |
| Western RR   | UTU          | Operating/Non-Operating Employees  |
| Western RR   | UTU          | Train and Engine Service Employees |

## SUPPORTING REPORTS & TABLES

### CASE RECORDS

85

## Case Records

### 3C: Airline Representation Cases Closed

| Carrier                                   | Union       | Craft/Class               | Disposition             |
|---|-------------|---------------------------|-------------------------|
| Air Serv                                  | SSOBA       | Security Officers         | FUI-Dismissal           |
| AirTran Airways                           | IAM         | Fleet & Passenger Service | Certification           |
| Allegiant Air                             | TWU         | Flight Attendants         | Certification           |
| Allegiant Air                             | TWU         | Flight Dispatchers        | Dismissal               |
| Atlantic Southeast Airlines               | PAFCA-TWU   | Flight Dispatchers        | Certification           |
| Atlantic Southeast Airlines               | IBT         | Mechanics and Related     | Certification           |
| Atlantic Southeast Airlines               | IBT         | Stock Clerks              | Certification           |
| Bristow U.S.                              | OPEIU       | Mechanics and Related     | Dismissal               |
| Citation Air                              | IBT         | Pilots                    | Certification           |
| Continental Airlines                      | IAM         | Ground Instructors        | Certification           |
| Continental Airlines                      | IAM         | Stock and Stores          | Administratively Closed |
| Delta Air Lines                           | AFA         | Flight Attendants         | Dismissal               |
| Delta Air Lines                           | IAM         | Fleet Service             | Dismissal               |
| Delta Air Lines                           | IAM         | Office Clerical           | Dismissal-ISI           |
| Delta Air Lines                           | IAM         | Passenger Service         | Dismissal               |
| Delta Air Lines                           | IAM         | Stock and Stores          | Dismissal               |
| ExpressJet Airlines                       | IBT         | Stock and Stores          | Certification           |
| JetBlue Airways                           | ALPA        | Pilots                    | Dismissal               |
| NetJets Serv.                             | IBT         | Flight Dispatchers        | Certification           |
| OpenSkies                                 | IAM         | Flight Attendants         | Certification           |
| Piedmont Airlines                         | CWA         | Fleet & Passenger Service | Certification           |
| Regional Elite Airline Serv.              | USW         | Fleet & Passenger Service | FUI-Dismissal           |
| Republic Airlines, et al.                 | IBT, et al. | Pilots                    | Certification           |
| Ryan International Airlines               | IBT         | Mechanics and Related     | Dismissal               |
| Sky King Airlines                         | IBT         | Pilots                    | Dismissal               |
| Southwest Airlines                        | AMFA        | Maintenance Controllers   | FUI-Dismissal           |
| United Air Lines/<br>Continental Airlines | IFPTE       | Engineers and Related     | Dismissed-WDI           |
| United Air Lines/<br>Continental Airlines | IAM-IBT     | Fleet Service             | Certification           |
| United Air Lines/<br>Continental Airlines | AFA-IAM     | Flight Attendants         | Certification           |
| United Air Lines/<br>Continental Airlines | IAM         | Stock Clerks              | FUI-Certification       |
| Vision Airlines                           | UTU         | Pilots                    | Dismissal-WDI           |

## SUPPORTING REPORTS & TABLES

### CASE RECORDS

86

## Case Records

### 3D: Railroad Representation Cases Closed

| Carrier  | Union    | Craft/Class                 | Disposition             |
|--|----------|-----------------------------|-------------------------|
| Chicago, Ft. Wayne & Eastern RR                              | BRS      | Signalmen                   | Certification           |
| Conecuh Valley RR, Three Notch RR, and, Wiregrass Central RR | UTU      | Train and Engine Service    | Certification           |
| Georgia and Florida Ry.                                      | UTU      | Maintenance of Way          | Certification           |
| Illinois Central RR  | BCW      | Electrical Workers          | FUI-Dismissal           |
| Indiana RR   | TCIU     | Mechanical Department       | Certification           |
| Indiana Southern RR  | IAM-UAW  | Non-Operating Employees     | Certification           |
| Industrial Ry. Switching & Services                          | UTU      | Train and Engine Service    | Dismissal-WDI           |
| Long Island RR   | NTSA     | Facilities & Staff Managers | Dismissal-WDI           |
| Madison Terminal Ry.   | BRS      | Signalmen                   | Certification           |
| Meridian and Bigbee RR                                       | BMWE     | Maintenance of Way          | Dismissal               |
| New Orleans & Gulf Coast Rr.                                 | UTU-BLET | Train and Engine Service    | Dismissal-WDI           |
| Otter Tail Valley RR   | UTU-BLET | Train and Engine Service    | Certification           |
| Raritan Central Ry.  | UTU      | Train and Engine Service    | Dismissal               |
| South Buffalo Ry.  | UTU      | Yardmasters                 | Dismissal               |
| Western RR   | UTU      | Carmen                      | Administratively Closed |
| Western RR   | UTU      | Operating/Non-Operating     | Certification           |
| Western RR   | UTU      | Train and Engine Service    | Administratively Closed |

## Glossary

**These definitions are provided for general understanding only. They do not provide definitive definition regarding any matter before the Board and are not to be construed as legal definitions that may be cited in any administrative, legal or arbitral proceeding.**

**Act** The Railway Labor Act

**Agency** The National Mediation Board

### **Alternative Dispute Resolution (ADR)**

ADR is a process for resolving disputes outside of the judicial system of law. In the venue of the NMB, ADR is the facilitation of interest-based or mutual-interest negotiations and grievance mediation.

**Amendable Contract** Under the Railway Labor Act, collective bargaining agreements become subject-to-change on a specified date, rather than expiring as agreements do under the National Labor Relations Act.

**Annual Report** NMB's Annual Performance and Accountability Report

**Arbitration** A type of dispute resolution process where an arbitrator renders a decision, which usually can be appealed judicially only on a very narrow basis such as fraud

**Arbitration Forum** A committee formed of officials of railroads, rail unions, arbitrators and the NMB for the purpose of improving the processing of railroad employee grievances

**Board** May be one of the following, depending upon the context in which it appears:

- National Mediation Board (NMB)
- Presidential Emergency Board (PEB)
- National Railroad Adjustment Board (NRAB)
- Special Board of Adjustment (SBA)
- Public Law Board (PLB)
- System Board of Adjustment (SBA)

**Carrier** An airline or railroad as defined by sections 151 and 181 of the Railway Labor Act.

**CFO Act** Chief Financial Officer's Act

**Class I** A category of the largest U.S. railroads as defined by the Surface Transportation Board

**Collective Bargaining Agreement** A labor contract between a union and a carrier

**Cooling Off Period** A 30-day period of time preceding the right of parties to a collection bargaining dispute to engage in "self help" under the RLA

**Craft or Class** A group of employees deemed by the NMB to share a community of work and interest for the purpose of collective bargaining under the RLA

**Direct Negotiations** Negotiations between the parties to a collective bargaining dispute before or apart from NMB mediation

**Dunlop II Committee** An independent review committee comprised of carrier and union experts formed at the request of the NMB in FY 2009 to examine the internal functions, policies and procedures of the agency and the progress of the agency subsequent to the recommendations of the Dunlop Commission of the 1990s.

**E-book** A book available via the Internet such as NMB's Annual Performance and Accountability Report

**E-business** The conduct of business on the Internet

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## SUPPORTING REPORTS & TABLES

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## GLOSSARY

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88

**E-filing** An electronic method for submitting documents

**Facilitation** A process where a neutral helps the parties in a collective bargaining or grievance dispute use ADR problem-solving methods such as interest-based bargaining or grievance mediation

**Facilitated Problem Solving** This approach to bargaining utilizes a process of problem identification and discussion to reach resolution of issues rather than an exchange of proposals.

**Grievances** Complaints of employees or unions arising out of the application or interpretation of collective bargaining agreements

**Grievance Arbitration** A method of resolving grievances whereby an arbitrator determines the outcome

**Grievance Mediation** In the venue of the NMB, using mediation as an alternative to arbitration for resolving grievances

**Impasse** In mediation under the RLA, an impasse is when the NMB determines that further mediation will not resolve a collective bargaining dispute.

**Interest Arbitration** A process, under the RLA, to establish the terms of a new or modified collective bargaining agreement through arbitration, rather than through negotiations.

**Interest Based Negotiation** A type of negotiations where the parties collaboratively focus on finding solutions to underlying needs or concerns of each party (i.e., the whys) instead of adversatively negotiating specific positions

**Internet Voting** A web-based balloting option that supplements telephone electronic voting in representation elections

**Laboratory Conditions** Conditions to a representation dispute which ensure the independence of labor and management for the purpose of self-organization and the right of employees to freely determine whether they wish to be represented, or not, for the purpose of collective bargaining

**Legacy Carriers** A term applied to traditional major, hub-based airlines versus regional or point-to-point carriers

**Major Disputes** Disputes between management and a union pertaining to collective bargaining as opposed to grievance disputes known as Minor Disputes

**Mediation** A type of dispute resolution process where a neutral (i.e., a mediator) facilitates agreement between the parties to a collective bargaining dispute, vis-a-vis imposing a settlement on the parties via arbitration

**Minor Disputes** Grievances of employees or unions arising out of the application or interpretation of collective bargaining agreements as opposed to collective bargaining disputes known as Major Disputes

**National Handling** Mediation of a collective bargaining dispute where management of several railroads have chosen to negotiate collectively on a national basis

**National Labor Relations Act (NLRA)** Grants most private sector workers the right to organize and bargain collectively. Air and rail employees, however, are covered by the Railway Labor Act (RLA) rather than the NLRA.

**National Railroad Adjustment Board** One of three types of tribunals under the RLA for resolving railroad grievances (also see Special Boards of Adjustment and Public Law Boards). NRAB cases are resolved by the carrier and union members with or without a neutral.

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## SUPPORTING REPORTS & TABLES

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## GLOSSARY

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89

**NMB Lyceum** The NMB's open-resource, distance-learning website established to provide NMB staff, labor relations practitioners and the public with training programs relevant to the National Mediation Board and the Railway Labor Act.

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**Ombudsman** An official of the NMB that receives and addresses problems or complaints of employees or contractors regarding actions of agency managers or staff

**Online Arbitration** An Arbitration forum and a form of Online Dispute Resolution where hearings are held in virtual, web-based meeting rooms with live video

**Online Dispute Resolution** The application of Internet or web-based technology to resolving disputes

**Open Government Directive** President Obama's Directive of December 8, 2009, requiring Federal executive departments and agencies to take specific actions to implement the principles of Transparency, Participation, and Collaboration.

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**Presidential Emergency Board** A Board established under the Railway Labor Act by the U.S. President to investigate and report on an airline or railroad labor dispute

**Proffer of Arbitration** The step in the process of resolving collective bargaining disputes under the RLA, which follows a determination of impasse by the NMB, whereby the NMB offers binding arbitration to the parties as a method for resolving the dispute

**Public Interest Meetings** Under the RLA, the NMB can intervene in an active collective bargaining dispute at any time in the interest of the general public. Usually, one or both parties to a dispute requests the mediation services of the NMB.

**Public Law Boards (PLB)** One of three types of tribunals under the RLA for resolving railroad grievances (also see National Railroad Adjustment Board and Special Boards of Adjustment)

**Railway Labor Act (RLA)** A federal law that grants interstate airline and railroad employees the right to organize and bargain collectively. Other private industry employees are covered by the National Labor Relations Act (NLRA).

**Representation Dispute** A situation on an airline or railroad where employees in a specific, carrier-wide workgroup seek to organize for the purpose of collectively bargaining with their employer regarding matters of wages, benefits and working conditions

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**Section 3** Section 153 of the RLA pertaining to the National Railroad Adjustment Board

**Section 3 Committee** A group of representatives from freight, regional and commuter railroads and representatives of major rail unions, whose goal is the improvement of resolution of grievances

**Section 6** Section 156 of the RLA pertaining to the changing of wages, rules, hours and working conditions

**Section 7** Section 157 of the RLA pertaining to Arbitration

**Section 9a** Section 159A of the RLA pertaining to Presidential Emergency Boards for certain publicly-funded and operated commuter railroads

**Section 10** Section 160 of the RLA pertaining to Presidential Emergency Boards for airlines and railroads other than those covered by Section 9a



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## SUPPORTING REPORTS & TABLES

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## GLOSSARY

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90

**Self Help** The right of a party to a collective bargaining dispute to unilaterally act in its own best interest. A carrier, for example, may lock disputing employees out of the workplace or implement changes in pay, rules and working conditions; and the union, for example, may work specifically as required by its collective bargaining agreement or strike

**Showing-of-Interest** In a representation dispute, employees in a Craft or Class must indicate an interest in being represented for the purpose of collective bargaining by signing authorization cards which are submitted to the NMB by the representative/s of their choosing.

### **Special Boards of Adjustment (SBA)**

One of three types of tribunals under the RLA for resolving railroad grievances (also see National Railroad Adjustment Board and Public Law Boards)

**Status Quo** Situations under the RLA in either collective bargaining or representation disputes where existing pay rates, rules and working conditions cannot be changed unilaterally, pending the resolution of the dispute in question.

**Strike** A work stoppage action initiated by a union

**System Boards of Adjustment (SBA)** An arbitration board pursuant to an agreement by the parties for resolving airline grievances.

**System-wide** Under the RLA, a craft or class applies anywhere an airline or railroad operates in the United States

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**Telephone Electronic Voting (TEV)** A paperless balloting process using telephones instead of traditional paper ballots

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**Work Stoppage** An interruption to the operations of an airline or railroad

## SUPPORTING REPORTS & TABLES

### ACRONYMS

91

## Acronyms

|          |   |
|----------|---|
| AA       | American Airlines   |
| ABA      | American Bar Association  |
| ABX      | Airborne Express  |
| A-case   | An NMB designation for a Mediation case                               |
| ACR      | Association for Conflict Resolution                                   |
| ADR      | Alternative Dispute Resolution  |
| ADRS     | Alternative Dispute Resolution Services                               |
| AE       | Airborne Express  |
| AFA      | Association of Flight Attendants                                      |
| AFGE     | American Federation of Government Employees                           |
| AFL-CIO  | American Federation of Labor and Congress of Industrial Organizations |
| AFSCME   | American Federation of State, County and Municipal Employees          |
| AIRCON   | Airline Industrial Relations Conference                               |
| ALI-ABA  | American Law Institute-American Bar Association                       |
| ALPA     | Air Line Pilots Association   |
| ALRA     | Association of Labor Relations Agencies                               |
| AMTRAK   | National Railroad Passenger Corporation (NRPC)                        |
| APA      | Allied Pilots Association   |
| ARASA    | America Railway and Airway Supervisors Association                    |
| ARB      | Arbitration   |
| ATDA     | American Train Dispatchers Association                                |
| ATDD     | American Train Dispatchers Department (BLET)                          |
| AWS      | Alternative Work Schedule   |
| BCW      | Brotherhood of Communication Workers                                  |
| BLET     | Brotherhood of Locomotive Engineers and Trainmen                      |
| BMWE     | Brotherhood of Maintenance of Way Employees                           |
| BMWED    | Brotherhood of Maintenance of Way Employees Division                  |
| BNSF     | Burlington Northern and Sante Fe                                      |
| BRC      | Brotherhood of Railway Carmen   |
| BRS      | Brotherhood of Railroad Signalmen                                     |
| CA       | Confidential Assistant  |
| CBA      | Collective Bargaining Agreement                                       |
| CFO      | Chief Financial Officer   |
| CIO      | Chief Information Officer   |
| CLE      | Continuing Legal Education  |
| CMI      | Continental Micronesia  |
| COOP     | Continuity of Operations Plan   |
| COS      | Chief of Staff  |
| CR       | Conrail   |
| CRL      | Chicago Rail Link   |
| CSRS     | Civil Service Retirement System                                       |
| CSX/CSXT | CSX Transportation, Inc.  |
| CWA      | Communication Workers of America                                      |
| DC       | District of Columbia  |
| DQ&E     | De Queen & Eastern Railroad   |
| EFT      | Electronic Funds Transfer   |
| EO       | Executive Order   |
| F-case   | An ADR designation for Facilitation cases (F and F-ODR)               |
| F&O      | Firemen & Oilers  |
| FAA      | Federal Aviation Association  |
| FAPA     | Frontier Airline Pilots Association                                   |
| FAR      | Federal Acquisition Regulation  |

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## SUPPORTING REPORTS & TABLES

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### ACRONYMS

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92

|         |  |
|---------|--|
| FERS    | Federal Employment Management System                             |
| FFMIA   | Federal Financial Management Improvement Act                     |
| FISMA   | Federal Information Security Management Act                      |
| FLRA    | Federal Labor Relations Authority                                |
| FMFIA   | Federal Managers' Financial Integrity Act of 1982                |
| FOIA    | Freedom of Information Act                                       |
| FPS     | Facilitative Problem Solving                                     |
| FUI     | Findings Upon Investigation                                      |
| FY      | Fiscal Year  |
| GAAP    | Generally Accepted Accounting Principles                         |
| GAO     | Government Accountability Office                                 |
| GC      | General Counsel  |
| GLOWS   | Accounting System Used by NMB                                    |
| GM      | Grievance Mediation  |
| GM-case | An ADR designation for Grievance Mediation cases (GM and GM-ODR) |
| GPRA    | Government Performance and Results Act                           |
| GSA     | General Services Administration                                  |
| GWR     | Great Western Railway of Colorado                                |
| HERE    | Hotel Employees and Restaurant Employees International Union     |
| IAM     | International Association of Machinists & Aerospace Workers      |
| IAMAW   | International Association of Machinists & Aerospace Workers      |
| IBB     | Interest Based Bargaining  |
| IBB     | International Brotherhood of Boilermakers                        |
| IBEW    | International Brotherhood of Electrical Workers                  |
| IBT     | International Brotherhood of Teamsters                           |
| ICT     | Information and Communication Technology                         |
| IFPTE   | International Federation of Professional & Technical Engineers   |
| IHB     | Indiana Harbor Belt  |
| IT      | Information Technology   |
| JCC     | Joint Council of Carmen  |
| JD      | Juris Doctor (Doctor of Law)                                     |
| MBCR    | Massachusetts Bay Commuter Railroad                              |
| MD      | Maryland   |
| MI      | Michigan   |
| MWA     | Midwest Airlines   |
| NA      | Not Applicable   |
| NARA    | National Archives and Records Administration                     |
| NARR    | National Association of Railroad Referees [arbitrators]          |
| NCFO    | National Conference of Firemen and Oilers                        |
| NJASAP  | NetJets Association of Shared Aircraft Pilots                    |
| NJT     | New Jersey Transit   |
| NLRA    | National Labor Relations Act                                     |
| NLRB    | National Labor Relations Board                                   |
| NMB     | National Mediation Board   |
| NRAB    | National Railroad Adjustment Board                               |
| NRLC    | National Railway Labor Conference                                |
| NRPC    | National Railroad Passenger Corporation (AMTRAK)                 |
| NS      | Norfolk Southern   |
| NTSA    | National Transportation Supervisors Association                  |
| OA      | Office of Administration   |
| OAS     | Office of Arbitration Services                                   |
| ODR     | Online Dispute Resolution  |
| OLA     | Office of Legal Affairs  |
| OMAS    | Office of Mediation and ADR Services                             |
| OMB     | Office of Management and Budget                                  |

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## SUPPORTING REPORTS & TABLES

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### ACRONYMS

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93

|          |   |
|----------|---|
| OP       | Outreach and Promotion                                    |
| OP-case  | An ADR designation for Outreach OP and OP-ODR cases       |
| OPEIU    | Office and Professional Employees International Union     |
| OPM      | Office of Personnel Management                            |
| OVC      | Online Video Conferencing                                 |
| PAFCA    | Professional Airline Flight Control Association           |
| PAR      | Pan Am Railways   |
| PEB      | Presidential Emergency Board                              |
| PGR      | Progressive Rail  |
| PLB      | Public Law Board  |
| POA&M    | Plans of Action and Milestones                            |
| PSA      | PSA Airlines  |
| PTRA     | Port Terminal Railroad Association                        |
| R-case   | An NMB designation for a Representation case              |
| RA       | Republic Airlines   |
| RAH      | Republic Airlines Holdings                                |
| RDM      | Records and Document Management                           |
| RIM      | Records and Information Management                        |
| RLA      | Railway Labor Act   |
| RLBC     | Rail Labor Bargaining Coalition                           |
| RR       | Railroad  |
| SBA      | Special Board of Adjustment or System Board of Adjustment |
| SFFAC    | Statements of Federal Financial Accounting Concepts       |
| SIU      | Seafarers International Union of North America            |
| SMWIA    | Sheet Metal Workers International Union                   |
| SOP      | Standard Operating Procedures                             |
| SSOBA    | Special & Superior Officers Benevolent Association        |
| SWA      | Southwest Airlines  |
| SWAPA    | Southwest Airlines Pilots Association                     |
| T-case   | An ADR designation for Training cases (T and T-ODR)       |
| TCU/TCIU | Transportation Communications International Union         |
| TEV      | Telephone Electronic Voting                               |
| TWA      | Trans World Airlines                                      |
| TWU      | Transport Workers Union of America                        |
| UAL      | United Air Lines  |
| UCH      | United Continental Holdings                               |
| UP       | Union Pacific Railroad                                    |
| UPS      | United Parcel Service                                     |
| USA      | United States of America                                  |
| USA      | United Steelworkers of America                            |
| USAPA    | US Airline Pilots Association                             |
| USWA     | United Steelworkers of America                            |
| UTU      | United Transportation Union                               |
| WC       | Wisconsin Central   |
| WDI      | Withdrawn During Investigation                            |
| YDM      | Yardmasters   |



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**NATIONAL  
MEDIATION  
BOARD**

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